

Copyright and the Internet

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1. General rules concerning copyright protection on the Internet

The general rules concerning copyright protection apply to the Internet in the same way as to other situations. This means that each work on the Internet, insofar as it is original and expressed in a particular form, is eligible for [copyright protection](#).

To enjoy copyright protection, no formalities (e.g. registration) are required. The “copyright” notice or the (©) sign is absolutely not mandatory for work to be protected by copyright. It can, however, be very useful in case of a dispute, since it can create a presumption that the person indicated is the copyright owner on the work. Existence or absence of copyright notice does not guarantee existence or absence of rights on a work. If there is no copyright notice or the (©) symbol on the work, it does not mean that the work can be freely used.

2. What is copyright-protected on the Internet?

Copyright can protect various elements of a website: literary works, musical works, photographs, pictures, motion pictures. In particular, the following works can enjoy copyright protection on the Internet:

1. databases – under EU law, the [database](#) is protected both by copyright and by a sui generis right. A database can be protected by copyright insofar as the choice and the arrangement of the information constitute original creations. If the preparation of a database required a substantial investment by the maker in terms of quantity and/or quality, the database can be protected by a special sui generis right.
2. computer programs – under EU law, a [computer program](#) is protected by copyright, as a literary work, as long as it is original in the sense that it is the author's own intellectual creation. Due to the broad definition of the reproduction right with regard to computer programs, almost every use of a computer program will require the author's authorisation in the form of a licence.
3. website - a website may be considered an original creation protected by copyright because of its graphical aspect, or by the choice and the arrangement of the information available. Furthermore, a website may be protected as a database under a sui generis right even if its content is not protectable under copyright (non-creative database).

3. What is allowed/not allowed on the Internet?

1. scanning or downloading a work from the Internet - the "copy/paste" function, downloads and scanning website content have become common and easy acts for many Internet users. However, these acts constitute reproduction, which is the author's prerogative. In other terms, these acts have to be expressly authorised by the author or the entitled beneficiaries, unless they are permitted as “fair use”.
2. hyperlinking and framing - creation of a link to another site does not generally require the authorisation of the copyright owner on the linked website. Indeed, it is considered that the creator of a website gives his tacit consent to the linking. However, certain types of linking, such as framing, may be considered illegal if they mislead the user as to the identity of the true owner of the website.
3. downloading MP3 files and making them available on the Internet - in principle, the mere reproduction from a CD to MP3 files on a hard drive for private purposes is covered by the exception for private copy. The publishing of MP3s on the In-

ternet is considered a communication to the public. It is the author's prerogative and requires consent. The legality of downloading is controversial. According to current unclear legislation, this type of practice should be avoided.

4. use of works with a "copyleft " or "copyfree " notice - "copyfree" is used by the author in order to give a free licence to the user under very specific conditions. The directions for use on the website should be checked in order to determine which uses are allowed by the copyright owner. An author might indeed wish to exclude commercial use of his work.
5. use of "shareware" or "freeware" - shareware is software distributed for the purpose of evaluation by the end-user. After this trial period, the user is supposed to obtain a licence or stop using the software. Generally, the author grants a free licence of use but does not grant his economic rights to the software. This licence is often granted under very specific conditions. The freeware is entirely free.

4. Authorisation by the holder

The use of a work created by a third party requires the prior consent of the copyright owner if the planned use involves the use of all or part of the rights granted to the author. In order to do so, it is necessary to identify the holder of the copyright for the work that is to be used.

The authorisation of the use of copyrighted materials on the Internet can be obtained through:

1. transfer of copyright, which in most countries should be done in writing;
2. obtaining a licence for the use of copyrighted material.

For more detailed information please consult the [extended version of this document](#)