A basic guide to copyright law
Copyright

What is it?
- Copyright is a property right which subsists in the following descriptions of work:
  - original literary (including software), dramatic, musical or artistic works;
  - sound recording, films or broadcasts; and,
  - typographical arrangements of published editions, such as newspapers or magazines.
- Copyright does not protect ideas. Copyright only exists if the idea is fixed, such as in writing or in a photograph. It is not the idea that is protected but the expression of the idea itself, i.e. the book or the photograph.

Procedure for protection
- Copyright automatically arises upon the creation of a work if it is a type of work capable of protection (see the above list). There is no system of registration.
- Practical tips - it is advisable for the author of the work to:
  - mark the work with a ©, the author's name and the date of its creation. This should act as a deterrent to would be infringers.
  - retain evidence of the date of first creation of the work. If the author is an employee acting in the course of his employment, it will also be helpful to record details of the author's employment status.

Who owns it?
- The first owner of the copyright in a work is the author of the work.
- However, where a literary, dramatic, musical or artistic work is made by an employee in the course of his employment, his employer is the first owner of any copyright that arises (subject to any contrary agreement).

What rights does a copyright owner have?
- The owner of the copyright in a work has the exclusive right to:
  - copy the work;
  - issue copies of the work;
  - rent or lend the work;
  - perform, show or play the work;
  - communicate the work to the public; and,
  - make an adaptation of the work.

Duration of protection
- The duration of copyright depends upon the nature of the work itself.

<table>
<thead>
<tr>
<th>Works</th>
<th>Duration (subject to exceptions)</th>
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<tr>
<td>Literary, dramatic, musical or artistic</td>
<td>70 years from the end of the calendar year in which the author dies.</td>
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<td>works</td>
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<td>Sound recordings</td>
<td>70 years from the end of the calendar year in which the recording is made.</td>
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<tr>
<td>Films</td>
<td>70 years from the end of the calendar year in the last of the principal director, the author of the screenplay, the author of the dialogue, or the composer of music (specifically created for the</td>
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<td>Broadcasts</td>
<td>50 years from the end of the calendar year in which the original broadcast was made. There is no copyright in a repeat broadcast.</td>
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<td>Typographical arrangements</td>
<td>25 years from the end of the calendar year in which the edition was first published.</td>
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**Infringement**
- Subject to some exceptions, an infringement occurs where a 3rd party, without consent, exercises any of the exclusive rights of the copyright owner. This is known as primary infringement.
- A 3rd party can also commit what is known as secondary infringement if it:
  - imports and infringing copy of the work into the UK;
  - provides the means for taking infringing copies;
  - permits the use of premises for an infringing performance; or,
  - provides apparatus for an infringing performance.

**Remedies**
- If 3rd party infringes the copyright in a work, it may be possible to obtain the following remedies:
  1. an injunction to prevent future infringement;
  2. compensation for the infringing activity:
     - damages for loss of earnings – such damages are usually based upon a reasonable royalty for the use of the work made by the infringer, i.e. what would a reasonable licence fee have been for the use that has been made; or,
     - an account of the profits made by the infringer arising from the infringing use; and/or,
  3. delivery up or destruction of the infringing articles.
- In rare circumstances, usually where bootlegging has taken place, an infringer may face criminal sanctions.

**Exploiting copyright**
- Copyright is a valuable commercial asset.
- The copyright owner can assign (i.e. transfer) its rights to a 3rd party, or grant a licence to a 3rd party to do any of the above acts.
  - Assignments must be recorded in writing and signed by or on behalf of the person assigning the right in order to be effective.
  - A licence may be granted formally, informally or may arise by implication. A formal licence agreement provides the parties with certainty.

**Moral Rights**
- The author of the copyright work also has moral rights to protect his reputation (regardless of whether he remains the owner of the work).
- The author can seek to be recognised for a work or seek to prevent derogatory treatment of their work. The author’s moral rights cannot be assigned but may be waived.

**Copyright internationally**
- Copyright is a territorial property right. However, the Berne Convention requires signatory States to recognise the copyright of authors from other signatory States like they were a national of their State. The Berne Convention currently has 167 signatory States (including the UK). Copyright therefore has a certain level of international protection.