



INNOVUS

WHEN IS COPYRIGHT COPYWRONG?

Copyright perspectives to consider
when researching and writing your
thesis

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Innovus; Stellenbosch University

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What is Copyright?

- It is an intellectual property (IP) right with **economic** and **moral** function
- It grants authors a number of **exclusive rights** - allowing or preventing others from using their work
- Copyright exists on all original literary, dramatic, musical and artistic works of authorship
- In SA, the **Copyright Act 98 of 1978** (amended) regulates all copyright matters:
 - **2015** under review – 1st draft released
 - **2017** 2nd draft of Copyright Amendment Bill made available for public comment with parliamentary public hearings
 - **2018** in process of redrafting again and requested public input again



Is copyright important when researching & writing a thesis? Why?

- Copyright **infringement** risk– using someone else’s work
- Copyright **protection** of your own work = automatic = work is original and in material or tangible form
- **No registration** formalities = no registration or fee payable to obtain copyright protection
- SU - Students **assign** copyright in all works (including all research conducted as part of their studies and papers, dissertations & theses) to SU during their registration process
- **Publishing**- publishers want ownership of your copyright (including electronic rights)



Ownership of copyright

- Owner of a copyrighted work = **original creator** of the work
- **Exceptions:** employment; commissions; state-controlled; assignment
- SU = sole **owner** of all work of authorship created by staff or students in normal course of their studies or scope of employment
- Outside organisations providing scholarships or bursaries to SU students **≠** coverage of the Full Cost of such studies or research = Students may not grant IP rights directly to any outside organisation
- In SA, copyright lasts for the duration of the life of an author + **50 years** after the author's death – **public domain**



USE OF THIRD PARTY CONTENT

Copyright perspectives on the use of 3rd party content in your thesis

Basic copyright principles apply

Permission is required if you:

- reproduce, publish or communicate thesis in material form - **print or electronic**
- use or summarise **whole/complete text** - from an article; paper or internet material
- use a 'substantial part' of the copyright material - no fixed percentage indicated. **Quality** of the part to be used / **Quantity** = a relevant part or crux of original = **essence** of original work = **substantial part**
- Use photographs/diagrams/maps/graphs = **artistic work** = **complete work**



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Permission is not required if you:



paraphrase (rewrite) **small** part of the original source in their own words – reference the original source correctly



use an **insubstantial** part of copyright material – referencing to the original author and source



quote a 'small' part of copyright material – use quotation marks and correct referencing of the source and author



Cite a source in your text



Use an **individual** random piece of data (a fact)



Open Access – check 'CC licensing provisions



“Fair dealing” – does it apply to your thesis?

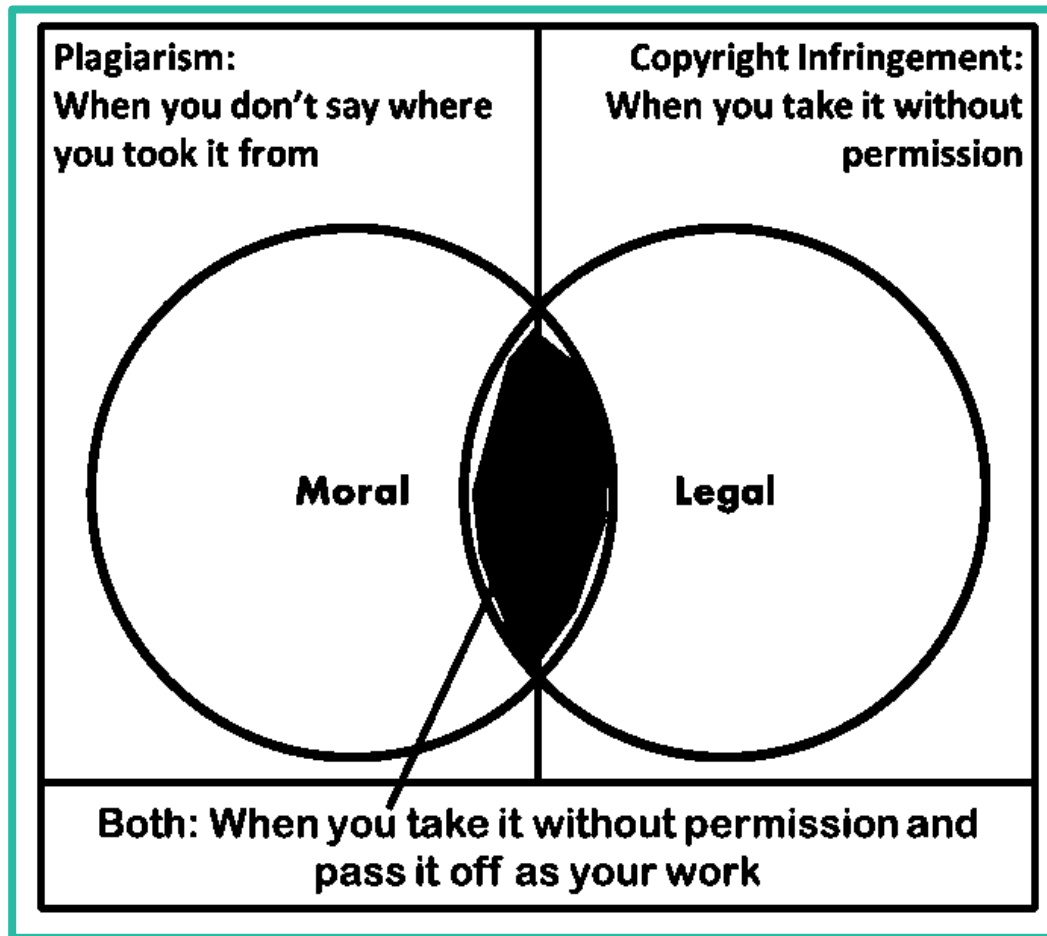
- For purposes of research or private study, or for personal or private use - Section 12 (1) of the Copyright Act allows a single **copy** of a reasonable portion of a work, consistent with fair use
- Generally accepted - copying of the whole or major portion of work **≠** reasonable or compatible with fair dealing

PLEASE NOTE:

- this provision not clearly defined in Act
- you may be allowed to copy reasonable amounts of material for **researching** your thesis - highly unlikely to extend to **distribution and communication** of this material in your thesis without permission from the copyright owner



Plagiarism vs Copyright Infringement



https://en.wikipedia.org/wiki/File:Plagiarism_vs_Copyright_Infringement.png

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Plagiarism

Violation of moral right and of academic standards

Involves verbal or written copying of the original

Failure to correctly attribute the authorship of copied material

Infringes author's work and reputation (moral right)

Copyright Infringement

Legal violation

Involves physical reproduction of the original (print and/or electronic)

Failure to obtain permission and in certain instances pay for use of the copied material

Infringes author's work and reputation (moral right) and potential income (economic right)



OBTAINING PERMISSION TO USE CONTENT

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How to obtain permission from the rights holder of 3rd party content?

- **Check** the terms of use of material
- Open source = type of **CC licence** or public domain
- Determine **ownership** of material
- Request **permission** in writing from the copyright owner
- Indicate that is it for **non-commercial/academic** use
- Indicate **format** – print & electronic as thesis may appear on a academic repository (*ie* SUNScholar)
- **Follow up** continually until you receive a reply



Cont'd

PLEASE NOTE:

- No response to your attempts to request permission
- Publishers may ask for payment of copyright fee

CONSIDER TO:

- **remove the material**
- **paraphrase it in your own words – credit original source and author**
- **reduce extent of the material to be used = an insubstantial part – credit the original source and author**



Permission has been given, what you may and may not do with the material:

You must:



Credit the original source



State if you have altered or modified the material from original format



Use the material in manner for which permission has been granted

You may NOT:



Alter or distort the original material in any way which could damage the author's **moral rights**



COPYRIGHT AND PUBLISHING YOUR THESIS

Publishing your thesis

- Students assign to SU copyright in all works (Assignment on registration)
- SU's Calendar (Yearbook) – Part 1 (General) = provisions re format, submission, duplication and publication
- Students may not publish assignments/theses/dissertations in any form (other than article in accredited academic journal) without prior written approval of Dean of relevant faculty
- Income from artistic, literary or musical works usually not claimed by SU - even if work created pursuant to student's studies
- Contact **Innovus** regarding intended publications before proceeding - students may be granted copyright ownership or usage rights and be entitled to the income from these types of works



Word of advice

- Choose a specialised academic publisher with a high quality end-product
- Avoid mass vanity publishers – no peer reviews or editorial processes conducted & demand exclusive distribution rights -print and electronic
- Try & achieve a workable compromise between the publisher and yourself/SU.
- SU = public research institution = wide dissemination of its research - also through its website (**SunScholar**) = do not grant exclusive rights to a publisher which could be restrictive on further research



Copyright Watch – Act with caution

- **2018** = SU course content, lecture slides, tests, examination papers, SU student assignments, essays & course notes uploaded on external open electronic platforms
- SU academic materials reproduced & distributed via these websites for financial gain under the name & trademark of “Stellenbosch University”
- SU now issuing *Letters of Demand & Take Down Notices* to these website owners
- Scale of infringing content substantial – more than **5 270** items of SU academic material in total
- Has a negative impact on SU’s academic reputation & effects SU’s brand management by association with sub-par academic material
- **?“Blocking Order”** whereby SA ISP’s obligated to block access to sites hosting infringing content - High Court Order required



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Quick links:

- SU's IP Policy
 - <http://www.innovus.co.za/working-with-innovus/intellectual-property-2/ip-policy.html>
 - SU's Yearbook (RE: Thesis Publication)
 - http://www.sun.ac.za/english/Documents/Yearbooks/Current/2018_Policies%20and%20Rules_eng.pdf
 - SA Copyright Act
 - http://www.wipo.int/wipolex/en/text.jsp?file_id=130429
- OR
- <https://www.gov.za/af/documents/copyright-act-16-apr-2015-0942>

THANK YOU



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