

## What are authors' rights?

Authors' rights cover all the property and moral rights of an author for intellectual work that are foreseen and recognised by the law in force. Articles 1 -5 of Act 633/1941 and amendments set out what works are covered by authors' rights. Under the current legislation, there are two components to authors' rights:

1) The right of economic exploitation, which lasts throughout the author's life and for 70 years after his/her death. These property rights may be acquired, sold or transferred in any manner or form allowed by law.

The key rights of economic exploitation are:

- right of reproduction;
- right to perform, read or recite the work in public;
- right to public dissemination;
- right of distribution;
- right of transformation.

2) Moral rights do not expire, are personal and inalienable. The key moral rights are:

- right to claim ownership, that is, to be recognised as the author of the work;
- right to object to any modification to the work, with all changes having to be authorised by the author;
- right to publish, that is, the right to decide whether or not to publish a work;
- for unpublished works, it is necessary to have written authorisation simply to consult the work (e.g. degree theses);

Authors' rights are protected by Act 633 of 1941 and amendments.

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# University Library Services Theses and authors' rights

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### **Are authors' rights and copyright the same?**

Authors' rights and copyright are not the same since copyright is linked to a different cultural and geographical context. Copyright can be seen as the totality of the applicable authors' rights in Anglo-Saxon countries and the United States.

### **What does authors' rights protect**

The authors' rights law protects ingenuity of a creative nature. It protects the form and not the idea. Such form must be original and new.

### **How to become an author**

One becomes an author by creating a work. Without further formalities.

In the case of degree thesis it is the degree candidate which has full ownership of the rights of the thesis, not the supervisor or co-supervisor or other figures which, for various reasons, may interact with him during the degree course or in elaborating the thesis.

### **Which rights does the author possess**

The author possesses all the rights, that is:

- the moral rights (paternity, integrity, withdrawal of the work from sale) which always remain with the author and are not transferable ;
- the right of economic exploitation (distribution, communication, reproduction, translation, etc.), which may be transferred in part or in whole. The transfer of economic exploitation rights may take place free of charge or against payment and must be certified in writing. It is worth taking great care in transferring rights indiscriminately to those outside the University.

### **Who is the author of the thesis**

The author of the thesis is the degree candidate. Given that a thesis is often the result of a process of team work, involving several personas or entities, the degree candidate, as the formal author of its "illustration" must be careful not to damage the rights of other subjects involved; such rights may be damaged, for example, by using material of others without permission or releasing news or information relating to projects carried out by bodies or institutions. The author must be aware that when he writes the thesis he must respect the rights of others and that such legal obligation holds both for the digital version as well as the printed version of his work.

### **Who possesses the economic exploitation rights of the thesis**

The degree candidate, in addition to the moral rights, also possesses the economic exploitation rights of his work, unless his research has been financed by third parties. In this case it is the contract with the financing body which determines if and which economic exploitation rights stay with the author and/or the university. The new university regulations concerning intellectual property (patents) aim at establishing advantageous conditions both for those applying for patents via the university as well as the university supporting the corresponding costs. Should the professor and his research group have stipulated a contract with an external financier and should such contract foresee confidentiality, it is necessary to pay attention to such constraints on publication of the thesis.

### **Use of protected material in theses**

In general, material in the public domain or parts thereof may be inserted in the thesis or that for which written permission from the owners of the rights has been obtained. Inserting material or blocks of material (via copy and paste) of others for which permission has not been obtained can constitute a serious infringement. Such material or parts thereof may be used as content only if "re-elaborated" in their expressive form.

Various types of material:

- **Photos/images.** According to paragraph 1 bis of article 70 of the authors' rights law "free publication, without charge, of low-resolution or downgraded images and music on the internet is allowed for teaching or scientific purposes and only in the case in which usage is not for profit [...]". It is possible therefore to use protected images in a thesis as long as the quality of the image is downgraded or in low resolution.
- **Articles.** Insertion of parts of articles should be used with great care. Since, in addition to any authors' rights, also publication rights may exist it is always advisable to ask the permission of the publisher. Use of such material is in any case subject to written authorisation from the owners of the rights (in most cases the publisher). Insertion of entire articles should nevertheless be avoided. In order to highlight the above publications, mention should be made both in the text as well as in the bibliography.
- **Brief quotations.** Brief quotations of other protected works may be inserted, citing the source, subject to the limits of article 70 of the authors' rights law: "the quotation or

reproduction of passages or parts of a work and their communication to the public may be freely carried out if used for criticism or discussion, subject to the limits justified for such ends and as long as they do not constitute competition to the economic use of the work; if carried out for teaching or scientific research purposes this must be for illustration and not commercial purposes".

### **How to ask for permission of use of third-party material**

The request must be sent to the holders of the rights (in most cases the publisher to which the economic exploitation rights have been sold).

The request should indicate:

- contact: including postal address, telephone and e-mail
- details of the material for which you are applying for authorisation (title of article or book, author(s), ISSN/ ISBN, volume, year, issue and pages;
- details on the use of the material: full article, parts thereof, graphs, tables;
- details on how the material will be used.

### **Theses subject to agreement with third parties**

If the thesis is part of a wider research project for which an agreement with an external research or financing body for publication and diffusion of the thesis only once the entire research project has been completed has been stipulated, it is legitimate that an embargo period be requested.

### **Privacy**

If the thesis mentions a living person or a person recently passed away for which there is a risk of violation of privacy, an embargo period may be requested.

### **Patenting theses**

Patents and authors' rights are two separate and parallel worlds. The patent protects a technical solution to a technical problem and requires research innovation which can bring about an improvement in the technical state of the art.

For further details regarding patents, see the Research And Documentation Systems Department - Promotion Of Research Office - (Technology Transfer Office) (<http://www.ricerca.polimi.it/>).