

# COPYRIGHTS AND CONTRACTS

## (1) COPYRIGHTS



Aalto-yliopisto  
Taiteiden ja suunnittelun  
korkeakoulu

January 2024

# COURSE INFORMATION

- **Lectures and readings**

- Lectures
  - Week 3 of 2024 / Schedule, see MyCourses. **Wednesday online for everyone!**
  - Attendance required.
- Readings, see “Readings” folder in MyCourses and references in lecture materials.
- Any questions, please ask or send email: [pia.naarajarvi@gmail.com](mailto:pia.naarajarvi@gmail.com)

- **Exam**

- Friday afternoon, January 19, 2024, at the latest by Thursday, January 25, 2024.
- Statements/arguments, choose the correct ones. The maximum of 5 incorrect choices is acceptable to pass the exam. You may take the exam 3 times.
- No tricky information required, the exam will evaluate how the basic/key knowledge is learnt and understood.

- **Assignment**

- Notes of key copyright issues for own use.
- Assignment not submitted, only for own use. Notes will be needed in the second part of the course (week 8 of 2024).



**COPYRIGHT AS IPR**



Aalto-yliopisto  
Taiteiden ja suunnittelun  
korkeakoulu

# INTELLECTUAL PROPERTY RIGHTS (IPR)

- **Intellectual property rights**

- Copyright, trademarks, patents, industrial designs, etc.
- Copyright essentially relates to the audiovisual industry and creative content production.

- **What is intellectual property?**

- Look for more information:

- **WIPO**

- <https://www.wipo.int/about-ip/en/>

- [https://www.wipo.int/edocs/pubdocs/en/wipo\\_pub\\_450\\_2020.pdf](https://www.wipo.int/edocs/pubdocs/en/wipo_pub_450_2020.pdf)

- **IPR University Center**

- <https://ipruc.fi/tietopalvelut/yleistietoa-immateriaalioikeuksista/>



# KEY LEGAL REGULATION & THE AUDIOVISUAL INDUSTRY



Aalto-yliopisto  
Taiteiden ja suunnittelun  
korkeakoulu

# LEGAL REGULATION / FINLAND

- **Copyright Act / Tekijänoikeuslaki (404/1961)**
  - <https://finlex.fi/fi/laki/ajantasa/1961/19610404>
  - [https://finlex.fi/en/laki/kaannokset/1961/en19610404\\_20150608.pdf](https://finlex.fi/en/laki/kaannokset/1961/en19610404_20150608.pdf) (amendments up to 608/2015)
- **Copyright Decree / Tekijänoikeusasetus (574/1995)**
  - <https://finlex.fi/fi/laki/ajantasa/1995/19950574>
  - [https://finlex.fi/en/laki/kaannokset/1995/en19950574\\_20081004.pdf](https://finlex.fi/en/laki/kaannokset/1995/en19950574_20081004.pdf)
- **FINLEX / Legal regulation of Finland**
  - Online database of up-to-date legislative and other judicial information of Finland.
  - Legislation, court cases, treaties, etc.
  - Available in Finnish and Swedish, some translations also available in English.
    - <https://finlex.fi/fi/>
    - <https://finlex.fi/en/>



# INFORMATION ABOUT COPYRIGHTS / AUDIOVISUAL INDUSTRY

- **Tekijanoikeus.fi** <https://tekijanoikeus.fi/tekijanoikeus/>  
Tekijänoikeus suojaa luovaa työtä –opas:  
[https://tekijanoikeus.fi/wp-content/uploads/2015/03/tslt\\_opettajanopas.pdf](https://tekijanoikeus.fi/wp-content/uploads/2015/03/tslt_opettajanopas.pdf)  
Mitä tekijänoikeus tarkoittaa? <https://www.youtube.com/watch?v=Uald2uWcVKo>
- **Cupore** [https://www.cupore.fi/images/tiedostot/pilottitutkimusraportit/pilotreport\\_ds5copyrightlaw.pdf](https://www.cupore.fi/images/tiedostot/pilottitutkimusraportit/pilotreport_ds5copyrightlaw.pdf)
- **Kopiosto** The ABC of Copyright:  
<https://www.kopiosto.fi/en/kopiosto/about-copyright/the-abc-of-copyright/>  
<https://www.kopiosto.fi/kopiosto/tekijanoikeustietoa/tekijanoikeuden-abc/>
- **Kuvasto** <https://kuvasto.fi/kuvaoikeuksien-abc/>
- **Sanasto** <https://www.sanasto.fi/tietoa-tekijanoikeuksista/>



# CREATIVE WORK, AUTHOR & COPYRIGHT

- **Creative work**

- Criteria / Teostasovaatimus (teoskynnys): independent and original (eligibility considered on a case-by-case basis).
- Examples: book, script, artwork, composition, photograph, etc.
- Copyright protects only the form of expression, not ideas, procedures, methods of operation or mathematical concepts as such.
- Audiovisual industry: Original idea/plot of a story vs. synopsis vs. treatment.

- **Author (copyright owner)**

- "A person who has created a literary or artistic work shall have copyright therein..."
- Requirement: Copyright is only granted to a natural person who has independently created a 'work'.

- **Copyright**

- Copyright is an exclusive right that is granted to a person who creates a 'work'.
- Term of protection: Starting from the creation of the work and continuing until 70 years following the year of author's death.





# AUTHORS / AUDIOVISUAL INDUSTRY

- **Work by multiple authors / Yhteisteos**

- “If a work has two or more authors whose contributions do not constitute independent works, the copyright shall belong to the authors jointly.”
- Examples in the audiovisual industry:
  - Audiovisual work - created by multiple authors and performers.
  - Script – a work by multiple authors if several scriptwriters have created/written the script together.
- Audiovisual industry: If a producer wants to distribute and otherwise exploit an audiovisual work, the producer needs to acquire and agree on the necessary copyrights with all authors.

- **Authors of audiovisual works**

- Examples/Recognized authors in the audiovisual industry: scriptwriter, author of a book (if a script is based on a book), director, cinematographer, editor, production designer, costume designer, composer, etc.
- Criteria: Copyright is granted to the persons who have participated in the creation of an audiovisual work with a creative and original contribution.



# AUTHORS & PERFORMERS / AUDIOVISUAL INDUSTRY

- **Producer / Kuvatallenteen tuottaja (a right related to copyright / lähioikeus)**
  - Protection for a producer of a video recording.
  - Video recording = “A film or any other device on which moving images have been recorded.”
  - Term of protection: 50 years from the year during which the recording took place.
- **Performer / Esiintyvä taiteilija (a right related to copyright / lähioikeus)**
  - Protection for a performing artist, a performance of a literary or artistic work.
  - Term of protection: 50 years from the year during which the performance took place.
  - Audiovisual works: actors, extras, stunt performers.
- **Music**
  - Music authors
  - Aalto University: <https://libguides.aalto.fi/c.php?g=664486&p=4702181>
  - Teosto: <https://www.teosto.fi/>
  - Gramex: <https://www.gramex.fi/>

# ECONOMIC RIGHTS & MORAL RIGHTS

- **Authors and performers have the right to determine on the use of their creative work:**
- **Economic rights / Taloudelliset oikeudet**
  - Safeguard the author's ability to receive income and can be transferred.
  - Economic rights:
    - The right of reproduction / Teoskappaleen valmistaminen
    - Making a work available to the public / Teoksen saattaminen yleisön saataville
- **Moral rights / Moraaliset oikeudet**
  - Protect the author's integrity and cannot be transferred in their entirety under the Finnish copyright law.
  - The right of paternity / The right to claim authorship / Isyys oikeus – The name of the author must be stated in a manner required by proper usage when a work is used in public.
  - The right of respect / The right to the integrity of the work / Respektioikeus – A work may not be modified in a manner that violates the integrity of the author's literary or artistic value or originality, nor may it be made available to the public in such a form or context as to violate the author's integrity.



# MORAL RIGHTS / AUDIOVISUAL INDUSTRY

- **Credits**

- The right to claim authorship concerns announcing the author's name.
- Audiovisual works: On-screen credits in the main and end titles and credits in advertising of the audiovisual works as customary in the audiovisual industry.
- The author has the right to decide the format of the author's name and the author may refuse the use of the author's name.

- **Right to modify a work**

- The right of respect means that a work cannot be modified as wished.
- Unless otherwise agreed, the person to whom a copyright has been transferred may not alter the work.
- Audiovisual works:
  - The right and extent of modification needs to be specifically agreed with authors:
    - with a scriptwriter regarding the script and
    - with all other authors regarding the audiovisual work.
  - When a literary work is agreed to be filmed, it's generally acknowledged that the literary work needs to be modified. However, an agreement confirms and validates such right without interpretation.
  - The right to modify an audiovisual work may be needed for e.g. editing, marketing, commercial break, dubbing, subtitling, censorship and other purposes.



# RIGHTS MANAGEMENT & THE AUDIOVISUAL INDUSTRY



Aalto-yliopisto  
Taiteiden ja suunnittelun  
korkeakoulu

# OVERALL RIGHTS MANAGEMENT / AUDIOVISUAL PROJECTS

- **Rights clearance of audiovisual project/work**

- **Copyright owners**

- Script clearance (and original work, e.g. book, clearance, if any)
    - Crew clearance
    - Cast clearance

- **Content**

- Location clearance
    - Content (products, music, names, texts, logos, brand items, graphics, art works, etc.) clearance
    - Title clearance

- **Rights management of audiovisual product/work**

- Primary rights – the distribution and exploitation of an audiovisual work.
  - Derivative/ancillary rights – remakes, sequels, prequels, merchandising, games and multimedia, radio, derivative audiovisual works, novelization, stage plays, soundtracks, music publishing, etc.



# RIGHTS CLEARANCE / COPYRIGHT OWNERS

- **Rights clearance of audiovisual project/work**
  - Script clearance (and original work clearance (e.g. book), if any)
  - Crew clearance
  - Cast clearance
  - Music clearance (original music)
  
- **Necessary copyrights acquired from all persons/authors who own copyright in the audiovisual work.**
  
- **Chain of title**
  - Writers and other copyright owners of the script, director and other key creative talent.
  - The content/coverage may vary.
  - Implementation/reporting:
    - Original agreements reviewed, or
    - Legal report on the chain of title (e.g. original agreements in foreign language).



# RIGHTS CLEARANCE WITH COPYRIGHT OWNERS

- **Example in the audiovisual industry:**

- In order to produce a film based on a script, a producer needs to acquire such right and contract with a scriptwriter.
- Several audiovisual and other works may be made based on a script (not just one film), and the scriptwriter may agree on such rights (in the scriptwriter's sole discretion) with the producer.
- In order to exploit and distribute the film, the producer needs to own the whole copyright in the film and is required to acquire all necessary rights from the film's copyright owners/authors.

- **Contracting**

- Authors' economic rights can be transferred, in whole or in part, and such rights must be agreed in the respective agreements.

- **Company as a contracting party (representing a copyright owner/author)**

- Copyright is only granted to a natural person (who has created a work), but such person can transfer the author's rights to a company.
- It's important to acknowledge and confirm in the contracting that a company has the right and authority to agree on the respective rights.





# RIGHTS CLEARANCE / CONTENT

- **Rights clearance of audiovisual project/work**
  - Location clearance
  - Content (products, music, names, texts, logos, trademarks, brand items, graphics, art works, etc.) clearance
  - Title clearance
  
- **Necessary copyrights acquired to be able to use the desired content (visual and sound) in the audiovisual work.**
  
- **Rights clearance of the content (licenses and releases) e.g.**
  - Artworks, such as paintings, sculptures, posters, etc.
  - Books, texts, maps and other copyrighted works
  - Cars, motorbikes and other vehicles
  - Computers, phones and other recognizable and clearly visible equipment
  - All recognizable and clearly visible brand items, such as furniture and clothes
  - etc.
  
- **Quotation (Copyright Act 22§)**
  - “A work made public may be quoted, in accordance with proper usage to the extent necessary for the purpose.”
  - Consideration on a case-by-case basis. More information: <https://www.sanasto.fi/sitaatti/>



# RIGHTS CLEARANCE / AUDIOVISUAL PROJECT

- **Rights clearance work**

- Legal script review
  - Content of the script reviewed and a report on relevant clearance needs.
- Legal contracting review
  - Making sure that all necessary contracting is in place including copyright assignments.
- Chain of title
  - Report on the acquired copyrights.
- Legal edit review
  - Rough cut of the audiovisual work reviewed and a report on relevant clearance needs of the planned content.
- Final legal review
  - Report/confirmation regarding the full and complete rights clearance.

- **Errors & Omissions (E&O) Insurance in international productions**

- Rights clearance protection.



# RIGHTS MANAGEMENT / AUDIOVISUAL PRODUCT

- **When the rights clearance of an audiovisual project is complete, the producer may use and exploit the audiovisual product and agree on the following rights:**
  - **Primary rights**
    - The distribution and exploitation of an audiovisual product.
    - Key terms in Finnish:
      - Esittäminen (theaters, events, etc.)
      - Välittäminen (television, internet, mobile, VOD, etc.)
      - Levittäminen (DVDs and other physical recordings)
  - **Derivative rights**
    - The audiovisual product used for derivative purposes.
    - Rights of remakes, sequels, prequels, merchandising, games and multimedia, radio, derivative audiovisual works, novelization, stage plays, soundtracks, music publishing, etc.



# ASSIGNMENTS OF COPYRIGHTS / AUDIOVISUAL INDUSTRY

- **Contracting in writing**

- All assignments of copyrights should be agreed in writing to confirm the accurate assignment.
- In case of unclarity, the copyright law protects the copyright owners.

- **Transfer of copyright further to a third party**

- Unless otherwise agreed, the person to whom a copyright has been transferred may not transfer the copyright to others.
- The right of assignment of copyrights to a third party (a further assignment) must be specifically agreed.
- Example: a producer needs to have the right to assign the copyrights of an audiovisual work further to a third party, such as distributors or broadcasting companies, to exploit and distribute the audiovisual work.

- **Defining the assignment of copyrights:**

- Subject matter: The work (e.g. script, audiovisual work).
- Extent: In whole (the entire copyright) or in part (a defined license).
- Limitations: Specific rights, specific territories, specific terms.
- Exclusivity: Exclusively vs. non-exclusively.

- **Consideration**

- Compensation for the assignment of copyrights, separately or included in other compensation, royalties.



# COPYRIGHT ORGANIZATIONS

- **Kopioisto** <https://www.kopioisto.fi/en/frontpage/>  
<https://www.kopioisto.fi/>
- **Audiovisual Producers Finland – APFI** <https://apfi.fi/en/home/>  
<https://apfi.fi/>
- **Kuvasto** <https://kuvasto.fi/in-english/>  
<https://kuvasto.fi/>
- **Sanasto** <https://www.sanasto.fi/en/>  
<https://www.sanasto.fi/>
- **Teosto** <https://www.teosto.fi/en/>  
<https://www.teosto.fi/>
- **Gramex** <https://www.gramex.fi/en/>  
<https://www.gramex.fi/>
- **Avate** <https://avate.fi/>

