



## Copyright Education in Screen Art Studies in the Digital Age

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### Abstract

*The Digital age inspires numerous challenges in front of creators from the audio-visual sector. The production costs are dramatically reduced and the distribution channels are multiplied. Everyone now can make a movie, upload it on You Tube and be an artist. These opportunities increase the danger of unauthorized use and copyright infringement. In this context, the right holders and users should have basic intellectual property knowledge.*

*The present survey aims to outline the effective ways and proper methodology to teach copyright law in Screen arts. The structure of lecture courses should combine theory with practice. As an introduction, some key copyright concepts should be clarified. It is important to reveal the nature of the audio-visual works as legally protected objects and to differentiate them from other commercial videos. Next step is the identification of the holders of copyright and neighboring rights, exploring their legal essence, terms of protection and cases of fair use. The focus is placed on the dual status of the film producer as a bearer of related rights and a primary user.*

*Following the clarification of the so-called statics of copyrights, the students are ready to study the dynamics of rights – i.e. the variety of licensing practices. The advanced methods of content distribution and relevant business models are thoroughly examined. This particular segment of the educational program should be most pragmatic and practically oriented and the students deal with individual film projects. They make up an annotation and list all rights holders for concluding a contract for the creation and subsequent use of the audio-visual work. Afterwards they independently draw a customized draft of license agreement under the supervision of a lecturer. The evaluation and self-assessment of the achieved results is obligatory, especially for the future film producers and art managers.*

*The media convergence and the technological boom during Digital epoch require reconciling theory with practice in the training process, which contributes to improve professional qualification and to adopt ethical principles that are the foundations of the civilized world, since Baruch Spinoza wrote his works and even long before him.*

*Keywords: copyright, digital age, audio visual works.*

### 1. Introduction: The “Gutenberg epoch” vs. the “Age of Google”

The idea of content sharing has not been invented during the Digital Age when we all witness decentralized exchange of digital files using P2P technology, torrent trackers, content aggregators, streaming platforms or online retailers. Paulo Coelho - the famous writer of literary works of magical realism also publicly admits that "writing means sharing". [1] The Statute of Anne/1710/, contained a special provision that turned the idea of sharing into a binding principle: „nine copies of each book or books, upon the best paper” had to be delivered by the relevant printer “for the use of the royal library, the libraries of the universities... [2] The first copyright act in the world was also the first law in favor of “the encouragement of learning” as proclaimed in the introductory text. The objective of the present survey is how to optimize the copyright education of students in screen art faculties at times when „analog thinking” dramatically changes under the pressure of the digital reality. The students are creators, but they are also the “Millenniums” from the so called “Four – screen generation” - utterly different consumers, who want to have a personalized and interactive cross-border access to audiovisual content. The process of improvement of the legal base is indeed much slower in comparison with the technological boom and the artists face unexpected challenges.

### 2. Structure of the copyright lecture course – a synthesis of theory and practice.

The lecture courses must be based on a carefully conceived balance of theoretical knowledge and practical skills. At first, key copyright terms and concepts are clarified. The audiovisual works of a creative nature are distinguished from other video-recordings which are not protected as art works e.g.: reality television formats, news broadcasts, sports or current affairs reports. The legal issues are disclosed in compliance with the Bulgarian law on copyright and related rights and its harmonization with European legal framework. In the global digital world human creativity knows no borders, so it is

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appropriate to make the substantial difference between American and European copyright law systems. The two legal doctrines are based on different philosophical concepts. The Anglo-American law is rooted in the theory of the “founder of modern utilitarianism” Jeremy Bentham/1748 – 1832/ and treats intellectual property rights as an ordinary kind of private property which can be transferred without restrictions. The etymology of the term copyright derives from the most popular kind of usage of art works - the reproduction. According to the US Copyright Act the audiovisual producer is the original right holder because films are considered “works of hire” and the rights of the actual creators have no recognition. On the contrary, the European copyright law is based on the individualistic philosophical theories of Immanuel Kant and Georg Hegel which pay tribute to the unique “fingerprint” of the author, recognizable in the original art works and some rights, especially moral rights are non-transferable. The next step is the identification of right holders, exploring the complex of economic and moral rights and the assumption of ownership set by the law. The “main authors /the director, cinematographer, scriptwriter and the production designer for cartoons/, who have copyright of the entire audiovisual work are differentiated from the other authors whose works might be incorporated in the film: composers, dialogists, costume designers, etc. Particular attention is paid to the dual status of the film producer as a bearer of related right on the original of the film and copies of it and as a primary user. Copyright protection of actors, especially the performers of the leading roles is thoroughly discussed. The students also learn that the cases of fair use should be interpreted in accordance with the statutory principle of the three-step test and the expiration of the term protection is not enough for an audiovisual work to fall into the public domain as a lawyer free zone. „Ascertaining that all underlying works whose copyright might be breached by a reuse of the cinematographic work are also in the public domain is an important additional step. [3]

The Digital age imposed widely the neologism “edutainment”. So, teaching copyright as a discipline - theoretically sterile and detached from business, is a lost cause. At the next stage of training it is useful for students to undertake work on individual film projects that span in different genres: documentaries, feature films, cartoons even hybrid animation. Each student faces a requirement to annotate the project in terms of copyright and to compile a list of all right holders with which should clear the rights for the creation and subsequent use of the audiovisual work. The “hybrid” legal nature of this type of contracts is enlightened in details as a mixture of manufacturing contract and typical copyright agreement for granting economic and moral rights on an exclusive basis. Afterwards under the supervision of the lecturer, the students independently draw a customized draft of primary license agreement for the copyright clearance between the producer as an initial user and the main authors. These contracts are distinguished from licensing agreements for secondary use of audiovisual works, which the producer concludes in dependance of user ‘s profile for a shorter term and limited territory. In this way, by using the method of a case based study, the students get used to solve real life tasks and meet the conditions of team work collaboration. The feedback is accomplished by evaluation and self-assessment of the achieved results which is a must for the future film producers and art managers. Students in directing, cinematography and scriptwriting in turn develop respect for the copyright of fellow artists. Although the rights are managed individually by the producers as a rule in the audiovisual sector, by the end of the lecture course the students study the complicated system of organizations for collective rights management and their role as an alternative source of revenue for the film industry.

### **3. Multi-screen channels of audiovisual distribution and new business models**

Contemporary students are creators of a new generation but they are as well advanced users of various web-based platforms and smart portable devices. So, it is very important for them to examine “the making available right” in the perspective of the dominant trends in digital reality. The final lecture cycle refers to the high-tech methods of content distribution and innovative business models arising from digital convergence. The students learn that the copyrights should be settled by the content provider, who uploads the protected content, not by the service provider who delivers connectivity or facilitates the access on line. Different ways of audiovisual content distribution through streaming and OTT technology are examined to a profound extend. The undeniable truth about Digital epoch is that linear media services become inferior to the interactive nonlinear services. That is why the students study the specifics of video on demand/VOD/ services which are provided by different business models. Some of them give access to the end user against payment of a subscription fee: SVOD, TVOD, NVOD, PPV, on demand replay streaming. Others secure free user access because they are supported by advertising like: AVOD and applications. The most emblematic examples of both business models are Netflix/ SVOD and OTT/ and YouTube. /streaming videos via YouTube Video Player/. They are also the new producers of audiovisual content in the Digital Age. In this context, the



prosecution of piracy with the old traditional means and the concept of law enforcement seem quite outdated. It is most important for the right holders to have deep knowledge about wide spread legal license practices and to be able to negotiate equitable remuneration which corresponds to the value of their rights.

#### **4. In lieu of a conclusion**

In the man's world of the nineteenth century Ada Lovelace created the Bernoulli number algorithm, thus becoming the first computer programmer. She was a visionary guided by her ideas that mathematics is a poetical science and is "the instrument through which the weak mind of man can most effectually read his Creator's works." [4] But the sole legitimate daughter of famous poet Lord Byron could hardly imagine that in fact she defined the digital future of mankind that forever changed our world. Nowadays, the access to diverse content and content sharing has turned into a core value for most people. It has become an increasingly important source of revenue for right holders of the creative industries and the reason for the emergence of new business models. Thus, the idea of sharing which appeared in "Gutenberg era" reached a sort of climax in the "Google epoch". Now knowledge is just a click away and should not be hampered by copyright restrictions, regarded as regressive obstacles to human progress. These pitfalls can be avoided by development and distribution of flexible and legal business models based on the usage of protected content. It seems that the concept of portability regulation and elimination of geoblocking would be finally achieved by reaching an agreement on Portability Regulation ensuring the cross-border portability of online content services in the internal EU market. Obviously the "post-Google epoch" would be defined by today's students. If we manage to make them live in the present they deserve, they will probably find out the future we dream of.

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