Copyright & patents
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Copyright protects literary, dramatic, musical or artistic ‘works’.

A Literary work includes a
- table, or compilation, expressed in words, figures or symbols ;and
- computer program or compilation of computer programs
Copyright also protects ‘subject matter other than works’ -

- films
- sound recordings
- Television broadcasts
- Published editions of Works
• Copyright protects the expression of an idea not the idea itself
• Protects ‘originality’ which means that the author created the work without copying rather than truly ‘original’
• Protection arises automatically and does not have to be applied for /or registered, unlike a patent
Copyright law is codified in the Australian Copyright Act 1968 (Cwth) as amended by the Copyright Amendment (Digital Agenda) Act 2000; and

the Copyright Amendment (Moral Rights) Act 2000.

What is Copyright?
Copyright is a bundle of rights. Whoever owns the copyright may:
- reproduce the work
- publish the work
- communicate the work to the public
- make an adaptation of the work
- enter into a commercial rental arrangement in respect of the work.
Duration of copyright protection for Works is
- 50 years from death of the author; or
- If work not published/performaed in author’s lifetime, 50 years from date of publication.

In US, the duration of copyright is 70 years.
Bill before the parliament will increase duration of copyright in Australia.
Nature of copyright in sound recordings

- make a copy of the sound recording
- Cause the recording to be heard in public
- Communicate the recording to the public
- enter into a commercial rental arrangement
Nature of copyright in a film
- Make a copy of the film
- cause the film to be seen in public and
- (sounds) to be heard in public
- to communicate the film to the public
Nature of copyright in TV & sound broadcasts

- to make a copy of the film of a broadcast or a copy of such film
- to make a sound recording of a (radio) broadcast
- to rebroadcast or communicate a broadcast to the public.
Infringement of copyright

Copyright is infringed (not ‘breached’) if someone exercises any of the copyright owner’s rights without permission.

Monash’s Acceptable Use of IT Facilities Policy prohibits activities which would infringe copyright eg downloading films, putting song lyrics on a website, peer to peer file sharing of music.
Copyright owners are vigilant in protection of copyright.

The university receives take down requests from lawyers/investigators protecting interests of film and record companies.

Universities in Australia and US have been targeted recently by the music industry which is trying to outlaw distribution of music through KaZaA and other peer to peer file sharing programs.
Recent examples at Monash:

- Anton Piller order served on University for seizure of a PhD student’s computer
- Student website with Lyrics reproduced from ARIA material
- Student website analysing the pros and cons of different peer to peer file sharing programs
- Films downloaded
- CDs uploaded and downloaded
Who owns copyright?

Author is the first owner of copyright in a Work except:
- If work is created as part of employment duties
- Author is a journalist
- Painting or photograph has been commissioned
- work is created under an agreement which gives ownership to someone else.
Ownership of copyright in a film/sound recording/broadcast reflects commercial reality:

- the maker is the owner; but

- If made for valuable consideration under an agreement, person who paid for the film (the film/recording company or TV station) is the owner
Patents

A patent protects an invention which is novel when compared with the prior art base.

An invention involves an inventive step which could not have been predicted from the literature (the prior art base).

Have to establish a ‘priority date’- can publish findings after that date.
-Patent applications are expensive;
- granted after extensive examination of application and prior art base;
- cover only the country in which application is made (the patent area);
- granted to the inventor/s or person to whom an inventor has assigned ownership.
Term of a standard patent is now 20 years (12 months for a petty patent)

A patent owner has the exclusive right to exploit an invention and to authorise others to exploit the invention during the term of the patent

Patents now granted for computer programs has become requirement for commercialisation
Copyright protects the expression of an idea, not the idea itself.

A patent effectively locks up an idea for the life of the patent.

Move to patenting for computer programs prevents others from creating another form of expression for same idea.