

# *Creative Rights for Creative People*



*Let's do the right thing*



## Cases/situations referenced:

- Rentmeester v Nike (Concepts aren't copyright protected)
- Bradley/McLean v Stritzel (Protection for cultural works)
- Meta Make-a-scene technology (Copyright ownership in AI)
- Disney v Air Pirates (Right to object to derogatory treatment)
- Karl Sim (Forgery/False attribution)
- Juracek v Capcom (Using a work in a derivative way; without change)
- Goldsmith v Warhol Estate (Is it transformative?)
- Warner Bros v RDR books (Harry Potter lexicon/guide is transformative)
- AA Milne – original Winnie-The-Pooh book (Public domain/Out of Copyright)
- Radford v Hallensteins (Sculptures in public places not protected)
- Infringement situations:
  - Heavey v Netflix
  - Netflix v Barlow & Bear
  - Sami Switch v Ed Sheeran
  - Haugen v Activision
  - Dayday film “Blue” /Gala Knörr “Young Cowboy gazing”
  - Sirpa Alalääkkölä v Paul Palmer (Copyright as property)



# Protections for Intellectual Property



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**Your work  
has value**



# WORK

New, **original** work,  
in a **fixed** and **tangible** form,  
by an **identifiable** creator

**Literary, Musical, Artistic, Dramatic, Sound Recording & Film, Publishing**

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# Community Benefit

- Contribution to the cultural landscape
- Access to cultural, social, intellectual record



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# Story Sovereignty

# WORK



- Automatic
- Limited time
- Exclusive Rights

To incentivize creativity and further  
development of knowledge

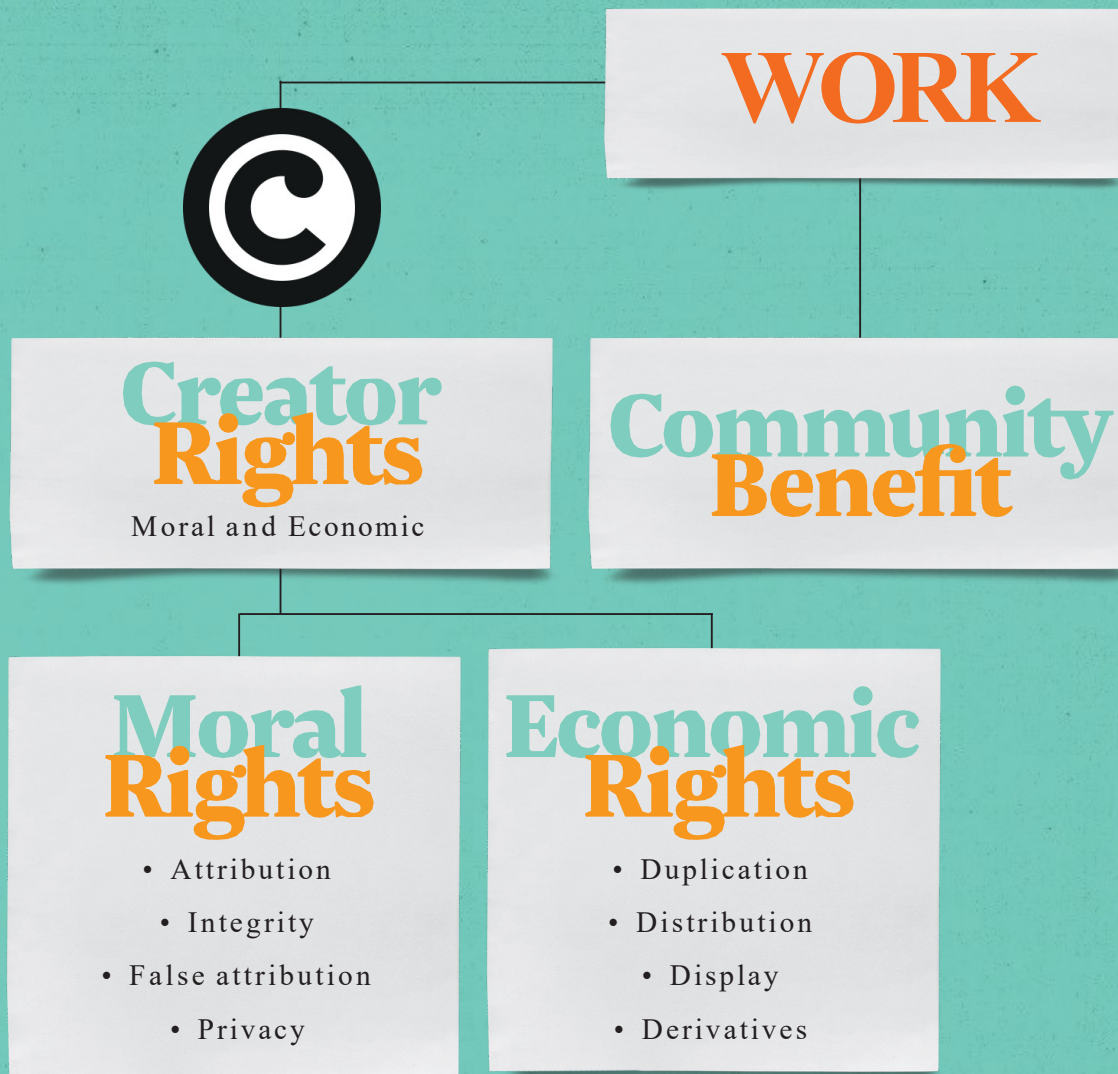
# Community Benefit

# The Commissioning Rule



## First ownership of copyright

- (1) Subject to the provisions of this section, the person who is the author of a work is the first owner of any copyright in the work.
- (2) Where an **EMPLOYEE** makes, in the course of his or her employment, a literary, dramatic, musical, or artistic work, that person's employer is the first owner of any copyright in the work.
- (3) Where—
  - (a) a person **COMMISSIONS**, and pays or agrees to pay for, the taking of a photograph or the making of a computer program, painting, drawing, diagram, map, chart, plan, engraving, model, sculpture, film, or sound recording; and
  - (b) the work is made in pursuance of that commission,— that person is the first owner of any copyright in the work.



# Economic Rights

## 16. Acts restricted by copyright

- (1) The owner of the copyright in a work has the exclusive right to do, in accordance with sections 30 to 34, the following acts in New Zealand:
  - (a) to copy the work:
  - (b) to issue copies of the work to the public, whether by sale or otherwise:
  - (c) to perform the work in public:
  - (d) to play the work in public:
  - (e) to show the work in public:
  - (f) to communicate the work to the public:
  - (g) to make an adaptation of the work:
  - (h) to do any of the acts referred to in any of paragraphs (a) to (f) in relation to an adaptation of the work:
  - (i) to authorise another person to do any of the acts referred to in any of paragraphs (a) to (h).

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# Transformative

- Transformed by adding new expression or meaning
- Value added to the original by creating new information, new aesthetics, new insights, and understandings



**WORK**

**Creator  
Rights**

Moral and Economic

**Community  
Benefit**

Expiration of ©  
“Out of ©”  
“Public Domain”

WORK (examples)	DURATION OF ©
<b>Literary</b> – <i>emails, training manuals, novels, song lyrics, tables, compilations (eg. computer programmes)</i>	Lifetime of author, plus 50 years (from the end of the calendar year of death)
<b>Dramatic</b> – <i>dance, mime, scripts</i>	Lifetime of author, plus 50 years (from the end of the calendar year of death)
<b>Musical</b> – <i>scores, sheet music</i>	Lifetime of author, plus 50 years (from the end of the calendar year of death)
<b>Artistic</b> – <i>paintings, drawings, diagrams, maps, models, sculpture, photos</i>	Lifetime of author, plus 50 years (from the end of the calendar year of death)
<b>Publishers</b> – <i>typography, layout</i>	25 years (from the end of the calendar year of first publication)
<b>Sound Recording &amp; Film</b> – <i>film soundtracks, albums</i>	50 years (from the end of the calendar year in which the work was made, or made available to the public, whichever is later)
<b>Communication Works</b> – <i>TV broadcast, podcasts</i>	50 years (from the end of the calendar year of first broadcast)
<b>Crown</b> – <i>NZ Govt publications</i>	100 years (from the end of the calendar year in which works was made)





**WORK**

**Creator  
Rights**

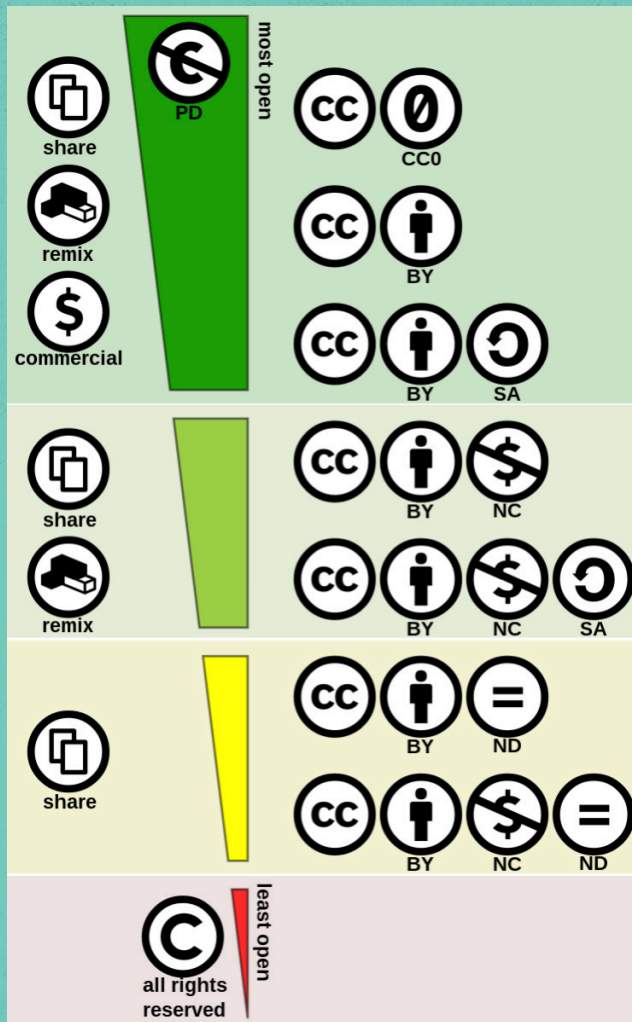
Moral and Economic

**Community  
Benefit**

Expiration of ©  
“Out of ©”  
“Public Domain”

**User  
Privileges**

# Creative Commons



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## Exceptions / Permissions



- Research, study, criticism, review, reporting
- Insubstantial amount
- Incidental/transient use, no commercial gain



- Licence
- Contract
- Agreement



**John Radford v Hallenstein Bros. Ltd (2007)**



# CMO = Collective Management Organization

- Ease of administration of legal permission
  - Automatic royalty payments
    - Access to advice
  - Power in numbers – belonging to a wider community
- Information about the business/industry
  - Registration of works for provenance





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# Infringement:

**the action of breaking the terms of  
a law, agreement, etc.; violation.**

**When it comes to © it sounds like “forgery,  
fraud, art theft, plagiarism, lifting, joke  
theft, direct copy, counterfeit,  
appropriation, copycat, cloning, piracy,  
ripcat, fake, replica, sampling...”**

**...without permission**

# Is it Infringement?

1. Proof of copyright ownership
2. Proof of access to the original work
3. Proof of infringement that is outside of “*exceptions*”



# be your own advocate

- **Take charge – personal responsibility**
- **Always use a contract, and understand it**
- **Make your work hard to steal**
- **If you think your work has been infringed: gather evidence, contact the infringer, seek resolution**
- **Consider Copyright as Property**



*Copyright.co.nz*

<https://www.copyright.co.nz/about/get-in-touch>

Karen@copyright.co.nz

