Copyright for Librarians

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C O N N E X I O N S

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Table of Contents

Chapter 1

Copyright and the public domain: an introduction[1]

1.1 Module 1: Copyright and the Public Domain

1.2 Learning objective

This module explores the basic concepts of copyright law. It provides a general introduction to the elements of copyright important to librarians. Other modules will discuss these topics in detail.

1.3 Case study

"I want to build a course pack for my students. What material may I include?"

Angela, a music professor, is visiting her school's library to collect material to build a course pack for her students. She would like to include excerpts from books, electronic resources and music scores. She also wants to post selected music and video clips online with her commentary. Nadia, the librarian, will explain to Angela what she may and may not do under copyright law.

1.4 Lesson

1.5 What Is Copyright?

As we saw in the Introduction, there are several views concerning the purposes of copyright law. One view is that copyright law encourages creativity by allowing creators to profit from their work. This goal of copyright is reflected in the wording of many copyright laws. For example, the "Copyright Clause"[2] of the United States Constitution states that Congress may grant authors copyright protection for their works for a limited time in order to "promote the progress of science and useful arts." (US Constitution, Article 1, Section 8, Clause 8.) Similarly, the stated purpose of the Statute of Anne[3] , the first copyright statute in England, was to "encourage learning." (8 Anne Chapter 19 (1710).) Another view is that copyright law ensures that authors are paid fairly for their effort. A third view is that a creative work is an expression of the personality of its creator, and thus should be protected from being used without the creator's permission.

[1] This content is available online at <http://cnx.org/content/m22652/1.4/>.
[2] http://en.wikipedia.org/wiki/Copyright_Clause
[3] http://en.wikipedia.org/wiki/Statute_of_Anne

Although copyright law grants authors many rights in their works, it also limits these rights in many important ways. Most of these limitations are quite specific, but a few are broad. Several, as we will see, enable librarians to use or disseminate copyrighted materials more freely than they otherwise could.

1.6 What Is The Public Domain?

As an illustration, suppose the fictional country of Booktonia has a copyright term of 20 years. If a book was written in 1980, the copyright protection for the book in Booktonia would have ended 20 years later, in 2000. Once the copyright in a work expires, the work is said to "fall into" the public domain. Once a work is in the public domain, the restrictions of copyright law no longer apply, and anyone may copy, reuse, or share the work as they wish.

The public domain functions as a pool of creative material from which anyone may draw. It provides authors the raw materials from which the next generation of books, movies, songs, and knowledge can be built. As the 14th century English poet Chaucer (whose work is now in the public domain) wrote[4] , "For out of the old fields, as men say, Comes all this new corn, from year to year; And out of old books, in good faith, Comes all this new science that men learn."

1.7 Who Makes Copyright Law?

Several international treaties[5] set standards that all participating countries must follow when adopting or changing their copyright laws. However, within those limits, each nation sets its own laws. Those laws determine who can acquire a copyright, what rights the copyright holder enjoys, and how long the copyright lasts. As a result, copyright law varies significantly from one country to another.

In all countries, copyright law is shaped in part by legislatures, which adopt and often modify copyright statutes, and courts, which adjust and clarify the provisions of the statutes when applying them to particular cases. In so-called **common law** countries, courts play somewhat more important roles than they do in so-called **civil law** countries, but the difference is not large. In some countries, **religious legal systems** also affect copyright rules. A discussion of the three main types of legal system, as well as lists of the legal systems of different countries may be found here[6] .

No matter what the legal system, however, copyright law is constantly chanigng to meet new creative, technological, and social challenges. Often those changes are driven by interest groups that seek to benefit their members. The library community has often played important roles in the shaping of copyright law in the past – and could play even more important roles in the future.

1.8 What Does Copyright Law Cover?

Copyright law generally covers all “original works of authorship.” Such original works come in many forms. For example, in almost all countries, all of the following are protected by copyright law:

- literary works (books, articles, letters, etc.);
- musical works;
- dramatic works (operas, plays);
- graphic arts (photographs, sculptures, paintings, etc.);
- motion pictures and audiovisual works (movies, videos, television programs, etc.);
- architectural works; and
- computer software.

[4] http://www.poetryintranslation.com/PITBR/English/Fowls.htm
[5] http://cyber.law.harvard.edu/copyrightforlibrarians/Module_2:_The_International_Framework
[6] http://en.wikipedia.org/wiki/Legal_systems_of_the_world

In some countries, sound recordings are also covered by copyright law. In other countries, sound recordings are protected by a separate, related set of rules known as "neighboring rights." In some countries, government works – such as maps, official reports, and judicial opinions – are protected by copyright law; in others, they are considered part of the public domain.

It is important to remember that **copyright never applies to ideas or facts**. It only covers "**original expression**" – in other words, the distinctive way in which ideas are conveyed. So, for example, the information contained in a science textbook is not protected by copyright law. You are free, after reading a textbook, to write and publish a new book conveying the same information in different words. Similarly, you are free, after reading a work of history, to write a novel incorporating the historical facts.

A few countries (most notably, the United States) require the original expression to be fixed in a **tangible medium**, like paper or a digital recording format, in order to be protected by copyright law. In those countries, improvisational performances – for example, of jazz or dance – are not protected unless their authors record them.

Copyright law covers works that have not been published or even made public. So, for example, private letters, diaries, and email messages are all protected by copyright law.

Some countries used to require published works to be registered with a central office or to carry a copyright notice with the name of the author and the year of publication in order to be protected by copyright law. Such **formalities** are no longer necessary for a work to be covered by copyright law. However, registering a copyright may help prove authorship or identify who must be contacted for permission before a work can be reused. In some countries, registration of a work is necessary before the author is permitted to sue someone for copyright infringement. (Foreign authors, however, are exempted from this requirement.) In addition, some countries continue to require publishers to deposit one copy of every new work in a designated office, such as a national library.

1.9 Who Gets A Copyright?

A copyright is ordinarily obtained by the creator of a work. If you write a novel, paint a painting, or compose a song, you will generally acquire the copyright in your creation.

The situation is more complicated if you are an employee creating the work as part of your employment. Countries vary a great deal in how they deal with such situations. Typically, in countries that follow the common law tradition, the copyright in a work prepared by an employee within the scope of employment goes to the employer. By contrast, in countries that follow the civil law tradition, the copyright typically goes to the employee. However, in civil-law countries, employment contracts or even copyright law often give employers rights over their employees' creations similar (though not identical) to the copyrights enjoyed by employers in common-law countries. Finally, in the United States and some other countries, when specific types of works are created in specific circumstances by independent contractors, the contractors and the organizations commissioning the works may agree in writing that the commissioning organizations shall be awarded the copyrights.

1.10 What Rights Come With Copyright?

The rights created by copyright law fall into two categories: economic rights and moral rights.

Economic rights are intended to give authors the opportunity to use their works to make money. These are things that typically only the owner of the copyright may do unless the owner grants permission to others. (Important exceptions to the requirement to obtain the copyright holder's permission, such as fair use and compulsory licenses, are discussed below.) The primary economic rights are:

- the right to reproduce the work – in other words, to make copies of it;
- the right to create derivative works – such as translations, abridgments, or adaptations;
- the right to distribute the work – for example, by selling or renting copies of it;
- the right to perform or display the work publicly.

Moral rights are designed to protect authors' noneconomic interests in their creations. Moral rights do not exist in all countries. Generally speaking, they are recognized more widely and are enforced more firmly in civil-law countries than in common-law countries. The primary moral rights are:

- the right of integrity – for example, the right to prevent the destruction or defacement of a painting or sculpture;
- the right of attribution – in other words, the right to be given appropriate credit for one's creations, and not to be blamed for things one did not create;
- the right of disclosure – the right to determine when and if a work shall be made public;
- the right of withdrawal – the right (in certain limited circumstances) to remove from public circulation copies of a work one has come to regret.

Neighboring rights, sometimes called related rights, are close cousins of copyright. The oldest and best known neighboring rights are economic rights granted to persons who are not authors of a work but who contribute to its creation – such as performers, producers, and broadcasting associations.

Some countries also have privacy and publicity rights that complement copyright. For example, some countries prevent the public distribution of works that contain personally identifiable information, unless permission is granted by that person.

1.11 The Limits of Copyright

The rights described above are subject to important limitations. First, as mentioned above, many older books, articles, recordings, and other works are part of the **public domain**. These materials may be used by anyone for any purpose. Unfortunately, it is not always easy to figure out when a particular work has fallen into the public domain. This directory[7] contains some helpful information on how long the term of copyright lasts in different countries around the world. It also has useful tips on when a work enters the public domain. Sometimes, a copyright holder will dedicate a work to the public domain before the copyright expires, much like a landholder will sometimes donate property to a town so it may become a park. In these instances, the work becomes free to use immediately.

In addition, the copyright laws of every country include **exceptions and limitations** to copyright. These identify activities that users can do without fear of violating copyright. While these exceptions vary by country, some common examples include copying for personal use, quoting short passages of literary works for the purposes of criticism; photocopying for archival purposes by libraries; and converting works into formats accessible by handicapped persons. Other exceptions are broader and less well defined, such as the **fair-use doctrine** of the United States and the **fair dealing** doctrines employed in some African countries.

Finally, most countries have **compulsory licensing** systems for certain types of works. Under a compulsory licensing system, copyright holders are required to permit certain uses of their works as long as the user pays a fee set by a government agency or courts. Such regimes are becoming increasingly common.

1.12 Copyright Licenses

If none of these exceptions or limitations apply, it may still be possible to make use of a copyrighted work. In order to do so, the user must obtain a **license** from the copyright holder that gives the user permission to use the content in a particular way. The copyright holder may demand a fee for such use, or may allow the use for free. The license should be specific and in writing in order to avoid confusion.

It is not always necessary to contact the copyright holder directly to obtain a license to use their works. Many countries have **collecting societies** (also known as collective administration organizations) that act as agents for large numbers of copyright holders. Such organizations now administer licenses pertaining to a

[7] http://en.wikipedia.org/wiki/Wikipedia:Copyright_situations_by_country

wide variety of uses of copyrighted materials. Examples include broadcasts of musical composition and the use of various modern technologies to reproduce graphics works or literary works.

Another set of organizations assist and encourage those copyright holders who are willing to give away some of their rights for free. The most famous of these are Creative Commons[8] and the Free Software Foundation[9] , but others are emerging.

1.13 Back to the case study

Nadia (the librarian) should help Angela (the professor) organize the set of materials she has gathered by asking a series of questions:

- Are any of the materials in the public domain?
- Are any of the remaining materials licensed under a Creative Commons license or a similar set of terms that allow their use?
- Are any of the remaining materials freed for use by any of the statutory exceptions contained in their nation's copyright statute?
- Does the library already own a license to use the materials in the way Angela proposes?

If the materials are in the public domain, are licensed freely under a Creative Commons license, are covered by a statutory exemption, or are included in existing licenses, they may be used. If not, Angela will need to obtain permission from the copyright holder or a collective rights organization.

1.14 Additional resources

A comprehensive discussion of the aspects of copyright law that affect librarians – and, in particular, librarians in developing countries – may be found in the eIFL Handbook on Copyright and Related Issues for Libraries[10] .

Carol C. Henderson, "Libraries as Creatures of Copyright: Why Librarians Care about Intellectual Property Law and Policy[11] ," 1998. The former Executive Director of the Washington Office American Library Association discusses the roles played by librarians in maintaining copyright balance.

A short debate between Professors William Fisher and Justin Hughes[12] , organized in May 2009 by the Economist magazine, examines the merits and demerits of the copyright system.

The Research Center for the Legal System of Intellectual Property (RCLIP)[13] , in cooperation with the Center for Advanced Study & Research on Intellectual Property (CASRIP)[14] of the University of Washington School of Law, is building a comprehensive database of court decisions[15] involving intellectual property (including copyright law) in every country throughout the world. The database is not yet complete, but already constitutes a highly valuable research tool, particularly for Asian countries.

A map, prepared by William Fisher, describing the main features of copyright law in the United States and, to a limited extent, other countries, is available here[16] .

"A Fair(y) Use Tale[17] " is a 2008 short movie on copyright and fair use in the US. According to the synopsis, "professor Eric Faden of Bucknell University created this humorous, yet informative, review of

[8] http://creativecommons.org/
[9] http://www.fsf.org/
[10] http://www.eifl.net/cps/sections/services/eifl-ip/issues/handbook/handbook-e
[11] http://www.ala.org/ala/issuesadvocacy/copyright/copyrightarticle/librariescreatures.cfm
[12] http://www.economist.com/debate/overview/144
[13] http://www.21coe-win-cls.org/rclip/e_index.html
[14] http://www.law.washington.edu/casrip
[15] http://www.21coe-win-cls.org/rclip/db/search_form.php
[16] http://cyber.law.harvard.edu/people/tfisher/IP/IP%20Maps.htm
[17] http://cyberlaw.stanford.edu/documentary-film-program/film/a-fair-y-use-tale

copyright principles delivered through the words of the very folks we can thank for nearly endless copyright terms."

The documentaries, Steal This Film Part I[18] (2006) and Steal This Film Part II[19] (2007), produced by The League of Noble Peers, offer entertaining and highly critical views of the recent trend toward strengthening the rights of copyright owners, particularly with respect to the unauthorized sharing of music and movies.

A helpful guide to determining which works have fallen into the public domain in the United States[20] has been provided by Michael Brewer and the American Library Association Office for Information Technology Policy.

A Librarian's 2.0 Manifesto[21] offers a provocative conception of the responsibilities of librarians, particularly in an environment characterized by rapid technological change.

1.15 Cases

The following judicial opinion explores and applies some of the principles discussed in this module:

Telegraph Group, Ltd. v. Ashdown, Part 10 Case 13 (Court of Appeal, England & Wales, 2001)[22] (the relationships among freedom of expression, the public interest, and intellectual property rights)

1.16 Assignment and discussion questions

1.16.1 Assignment

Answer one of the following questions:

1. Explain briefly what copyright law attempts to protect, as well as what freedoms are reserved for or available to the public.
2. Which (if any) of the justifications for copyright law make sense to you?

1.16.2 Discussion Question(s)

Select one of the answers that your colleagues provided to the Assignment questions, and comment on it. Explain why you agree or disagree. Do not hesitate to give examples you have faced as an author, as a member of the public, or as a librarian.

1.17 Contributors

This module was created by Melanie Dulong de Rosnay[23] . It was then edited by a team including Sebastian Diaz[24] , William Fisher[25] , Urs Gasser[26] , Adam Holland[27] , Kimberley Isbell[28] , Peter Jaszi[29] , Colin Maclay[30] , Andrew Moshirnia[31] , and Chris Peterson[32] .

[18] http://www.stealthisfilm.com/Part1/
[19] http://www.stealthisfilm.com/Part2/
[20] http://www.librarycopyright.net/digitalslider/
[21] http://www.youtube.com/watch?v=ZblrRs3fkSU
[22] http://www.ipsofactoj.com/international/2001/Part10/int2001%2810%29-013.htm
[23] http://cyber.law.harvard.edu/copyrightforlibrarians/Contributors#rosnay
[24] http://cyber.law.harvard.edu/copyrightforlibrarians/Contributors#diaz
[25] http://cyber.law.harvard.edu/copyrightforlibrarians/Contributors#fisher
[26] http://cyber.law.harvard.edu/copyrightforlibrarians/Contributors#gasser
[27] http://cyber.law.harvard.edu/copyrightforlibrarians/Contributors#holland
[28] http://cyber.law.harvard.edu/copyrightforlibrarians/Contributors#isbell
[29] http://cyber.law.harvard.edu/copyrightforlibrarians/Contributors#jaszi
[30] http://cyber.law.harvard.edu/copyrightforlibrarians/Contributors#maclay
[31] http://cyber.law.harvard.edu/copyrightforlibrarians/Contributors#moshirnia
[32] http://cyber.law.harvard.edu/copyrightforlibrarians/Contributors#peterson

Chapter 2

The international framework[1]

2.1 Module 2: The International Framework

2.2 Learning objective

This module explains how international copyright law works, how it affects developing countries, and how developing countries can affect it.

2.3 Case study

Angela is troubled by the restrictions that copyright law places upon her ability to assemble and distribute course materials. She is considering writing a short article, arguing that her nation's copyright law should be reformed to give teachers and students more latitude. However, she has heard that international agreements may restrict the freedom that each country enjoys to define its own copyright laws. Before drafting her article, she asks Nadia's help in determining which, if any, international agreements are applicable in their own country.

2.4 Lesson

2.5 The Rationale for the International System

As we saw in Module 1: Copyright and the Public Domain[2] , each country in the world has its own set of copyright laws. However, the flexibility that most countries enjoy in adjusting and enforcing their own laws is limited by a set of international treaties.

Why do we need any international management of this field? There are two traditional answers to this question.

First, without some international standardization, nations might enact legislation that protects their own citizens while leaving foreigners vulnerable. Such discrimination was common prior to international regulation. As copyright owners become increasingly interested in global protection for their creation, mutual recognition on fair terms of rights across borders becomes ever more important.

Second, some copyright holders believe that developing nations would not adopt adequate copyright protections unless forced to do so by treaty. Representatives of developing nations strongly dispute this argument.

[1] This content is available online at <http://cnx.org/content/m22658/1.4/>.
[2] http://cyber.law.harvard.edu/copyrightforlibrarians/Module_1:_Copyright_and_the_Public_Domain

2.6 International Instruments

The simplest way to achieve these goals would be a single treaty signed by all countries. Unfortunately, the current situation is more complex. Instead of one treaty, we now have six major **multilateral** agreements, each with a different set of member countries.

Each of the six agreements was negotiated within - and is now administered by - an international organization. Four of the six are managed by the World Intellectual Property Organization (WIPO); one by the United Nations Educational, Scientific and Cultural Organization (UNESCO); and one by the World Trade Organization (WTO).

The six agreements have been created and implemented in similar, though not identical, ways. Typically, the process begins when representatives of countries think that there should be international standards governing a set of issues. They enter into **negotiations**, which can last several years. During the negotiations, draft provisions are presented to the delegations of each country, which then discuss them and may propose amendments to their content in order to reach a consensus. This "consensus" may reflect genuine agreement among all of the participating countries that the proposed treaty is desirable, or it may result from pressure exerted by more powerful countries upon less powerful countries. Once consensus has been reached, the countries conclude the treaty by **signing** it. Thereafter, the governments of the participating countries **ratify** the treaty, whereupon it **enters into force**. Countries that did not sign the treaty when it was initially concluded may join the treaty later by **accession**.

In many countries – especially those that follow the civil-law tradition – treaties are regarded as "self-executing." In other words, once they are ratified, private parties can rely on them and, if necessary, bring lawsuits against other private parties for violations of the treaties' provisions. However, In other countries – especially those influenced by the British or Scandinavian constitutional traditions – treaties lack this self-executing authority. Instead, the national legislatures must adopt statutes implementing them, after which private parties rely on the terms of the implementing legislation, rather than on the terms of the treaties themselves.

None of the six treaties pertaining to copyright law contains a comprehensive set of rules or standards for a copyright system. Rather, each one requires member countries to deal with particular issues in particular ways, but leaves to the member countries considerable discretion in implementing its requirements.

Click here for more on the stages of an international agreement[3] .

Set forth below are brief descriptions of the six major treaties, with special attention to their impacts on developing countries.

2.6.1 Berne Convention

In 1886 ten European states signed the Berne Convention for the Protection of Literary and Artistic Works (referred to hereafter as the "Berne Convention") in order to reduce confusion about international copyright law. Since then, a total of 164 countries have joined the Berne Convention. However, there have been several revisions of the Berne Convention, and not all countries have ratified the most recent version. Any nation is permitted to join. You can check to see if your country is a member of the Berne Convention by consulting this link[4] . Below is a map showing which countries are currently members.

[3] http://cyber.law.harvard.edu/copyrightforlibrarians/Stages_of_an_international_agreement
[4] http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15

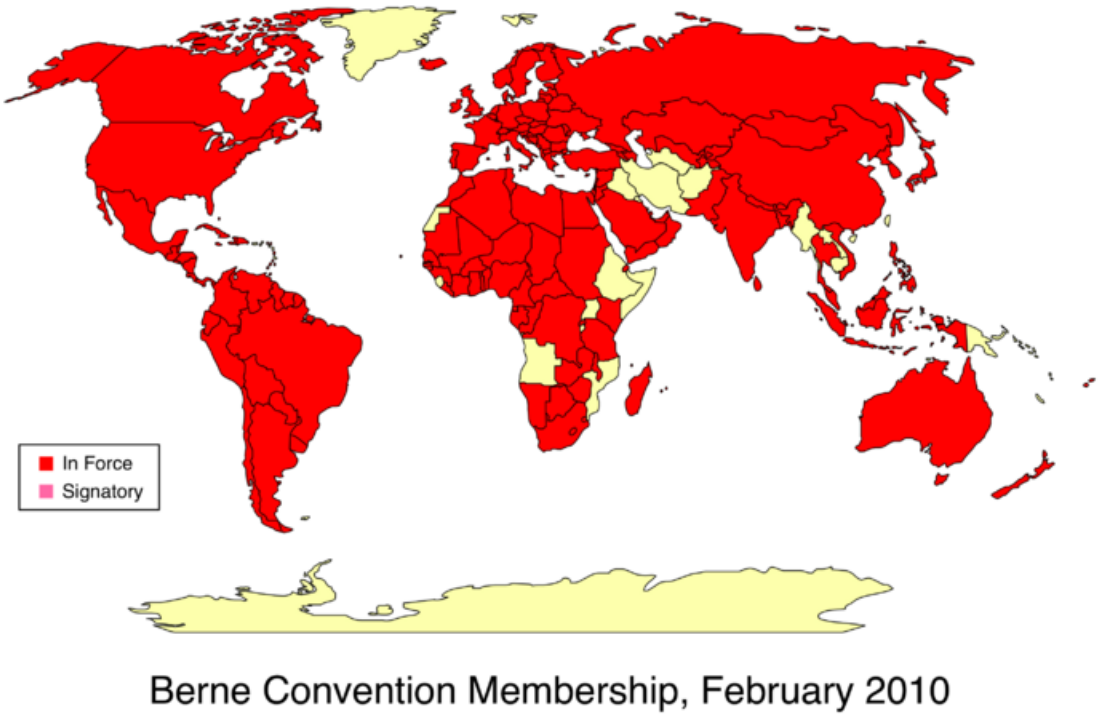

Figure 2.1

The Berne Convention established three fundamental principles. The first and most famous is the principle of "national treatment," which requires member countries to give the residents of other member countries the same rights under the copyright laws that they give to their own residents. So, for example, a novel written in Bolivia by a Bolivian citizen enjoys the same protection in Ghana as a novel written in Ghana by an Ghanian citizen.

The second is the principle of "independence" of protection. It provides that each member country must give foreign works the same protections they give domestic works, even when the foreign works would not be shielded under the copyright laws of the countries where they originated. For example, even if a novel written in Bolivia by a Bolivian national were not protected under Bolivian law, it would still be protected in Ghana if it fulfilled the requirements for protection under Ghanian law.

The third is the principle of "automatic protection." This principle forbids member countries from requiring persons from other Berne Convention member countries with legal formalities as a prerequisite for copyright protection. (They may impose such requirements on their own citizens, but usually do not.) The effect of this principle is that the Bolivian author of a novel doesn't have to register or declare her novel in Ghana, India, Indonesia or any other member state of the Berne Convention; her novel will be automatically protected in all of these countries from the moment it is written.

In addition to these basic principles, the Berne Convention also imposes on member countries a number of more specific requirements. For instance, they must enforce copyrights for a minimum period of time. The minimum copyright term for countries that have ratified the most recent version of the Berne Convention is

the life of the author plus 50 years for all works except photographs and cinema. The Berne Convention also requires its members to recognize and enforce a limited subset of the "moral rights" discussed in Module 1[5] .

The Berne Convention sets forth a framework for member countries to adopt exceptions to the mandated copyright protections. The so-called "three-step test" contained in Article 9(2) (discussed in more detail below[6]) defines the freedom of member countries to create exceptions or limitations to authors' rights to control reproductions of their works. Other provisions of the Berne Convention give member countries discretion to create more specific exceptions.

When the Berne Convention was revised most recently in Paris in 1971, the signatory countries added an Appendix[7] , which contains special provisions concerning developing countries. In particular, developing countries may, for certain works and under certain conditions, depart from the minimum standards of protection with regard to the right of translation and the right of reproduction of copyrighted works. More specifically, the Appendix permits developing countries to grant non-exclusive and non-transferable compulsory licenses to translate works for the purpose of teaching, scholarship or research, and to reproduce works for use in connection with systematic instructional activities.

While the Berne Convention outlines broad standards for copyright protection, it mandates few specific rules. As a result, the legislature in each member country enjoys considerable flexibility in implementing its requirements. For example, in the Berne Convention Implementation Act of 1988, the U.S. Congress adopted a "minimalist" approach to implementation, making only those changes to copyright law that were absolutely necessary to qualify for membership.

The Berne Convention does not contain an enforcement mechanism. This means that member states have little power to punish another state that does not comply with the Berne Convention's guidelines. As we will see later, this situation partially changed for the members of the Berne Convention that also joined the WTO.

To learn more about the Convention you may read its text[8] or consult a brief discussion of the history of the Berne Convention[9] .

2.6.2 Universal Copyright Convention

The **Universal Copyright Convention** (or **UCC**) was developed by **UNESCO** and adopted in 1952. It was created as an alternative to the Berne Convention. The UCC addressed the desire of several countries (including the United States and the Soviet Union) to enjoy some multilateral copyright protection without joining the Berne Convention.

The UCC's provisions are more flexible than those of the Berne Convention. This increased flexibility was intended to accommodate countries at different stages of development and countries with different economic and social systems. Like the Berne Convention, the UCC incorporates the principle of national treatment and prohibits any discrimination against foreign authors, but it contains fewer requirements that member countries must comply with.

The UCC has decreased in importance as most countries are now party to the Berne Convention or are members of the WTO (or both). The copyright obligations of members of the WTO are governed by the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), discussed below.

You may check if your country is a member of the UCC by reviewing this list[10] . For more information about the UCC you may read its text[11] or consult the Examination of the UCC[12] .

[5] http://cyber.law.harvard.edu/copyrightforlibrarians/Module_1:_Copyright_and_the_Public_Domain#What_Rights_Come_With_Copyr
[6] http://cyber.law.harvard.edu/copyrightforlibrarians/Module_2:_The_International_Framework#The_Three-Step_Test
[7] http://www.wipo.int/treaties/en/ip/berne/trtdocs_wo001.html#P410_75777
[8] http://www.wipo.int/treaties/en/ip/berne/trtdocs_wo001.html
[9] http://cyber.law.harvard.edu/copyrightforlibrarians/Berne_Convention
[10] http://portal.unesco.org/culture/en/files/7816/11642786761conv_71_e.pdf/conv_71_e.pdf
[11] http://www.ifla.org/documents/infopol/copyright/ucc.txt
[12] http://cyber.law.harvard.edu/copyrightforlibrarians/Examination_of_the_UCC

2.6.2.1

2.6.3 Rome Convention (1961)

By 1961, technology had progressed significantly since the Berne Convention was signed. Some inventions, such as tape recorders, had made it easier to copy recorded works. The Berne Convention only applied to printed works and thus did not help copyright holders defend against the new technologies. To address the perceived need for strong legislative protection for recorded works, the Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations was concluded by members of WIPO on October 26, 1961. It extended copyright protection from the author of a work to the creators and producers of particular, physical embodiments of the work. These "fixations" include media such as audiocassettes, CDs, and DVDs.

The Rome Convention requires member countries to grant protection to the works of performers, producers of phonographs, and broadcasting organizations. However, it also permits member countries to create exceptions to that protection – for example, to permit unauthorized uses of a recording for the purpose of teaching or scientific research.

88 countries have signed the Rome Convention[13] . Below is a map of the member states:

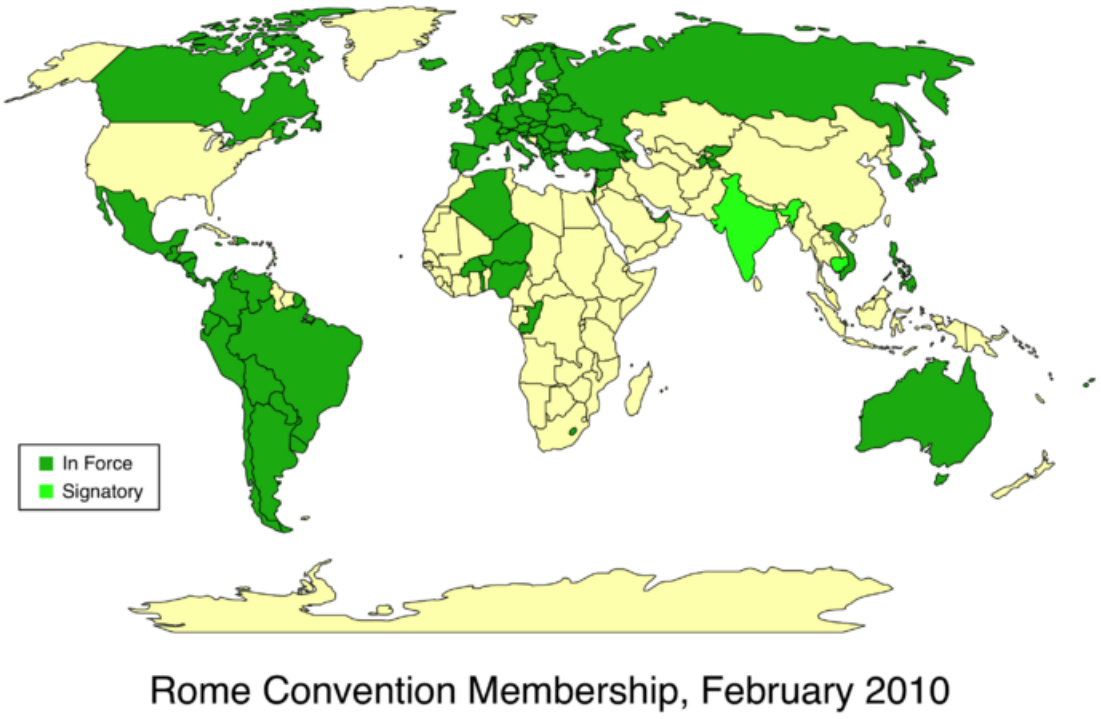

Figure 2.2

[13] http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=17