



Consultant Archivist

Session 1: Introduction to Copyright

Ellie Pridgeon

www.consultantarchivist.co.uk

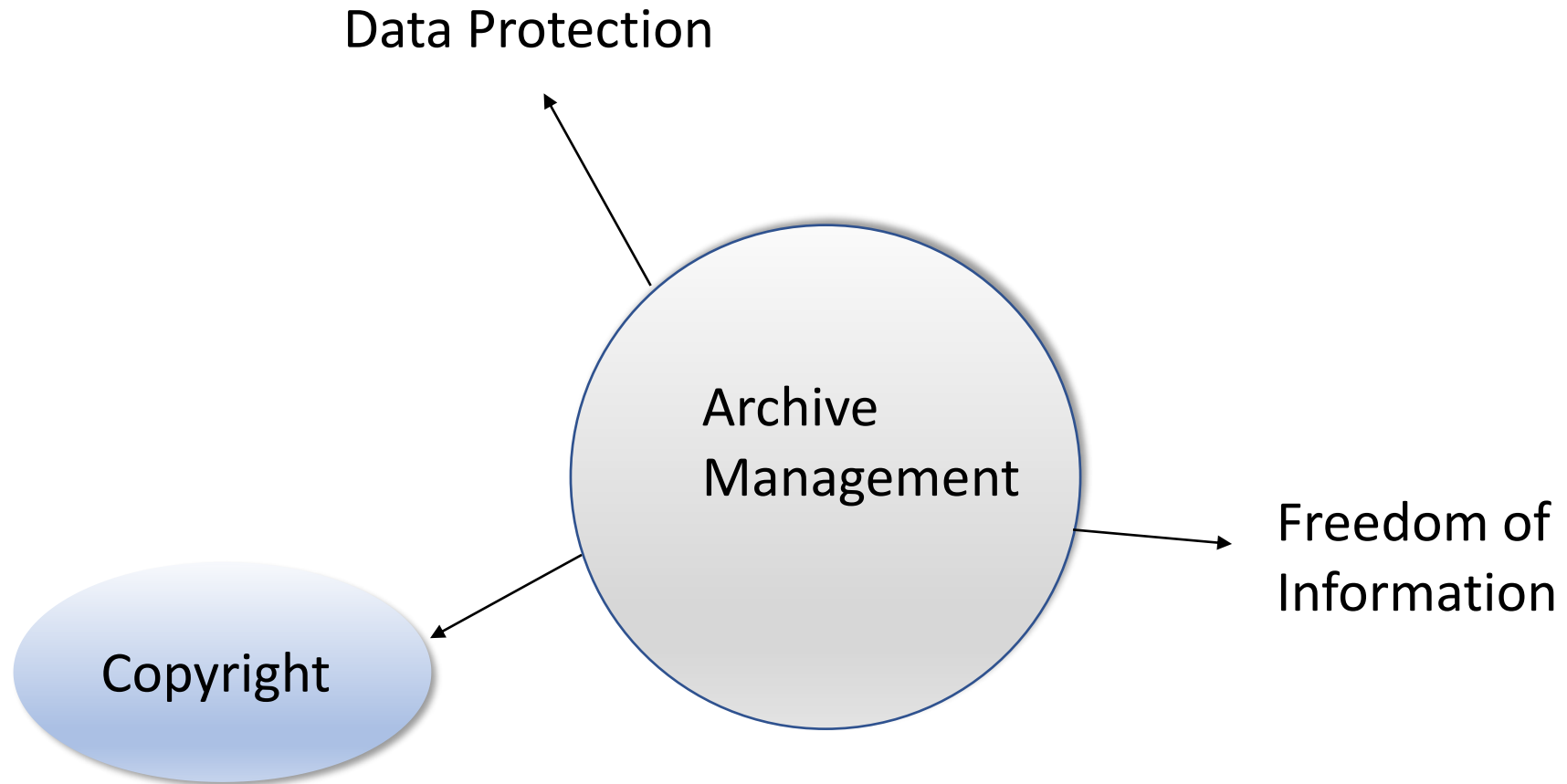
ellie@consultantarchivist.co.uk

Twitter: @consularchivist

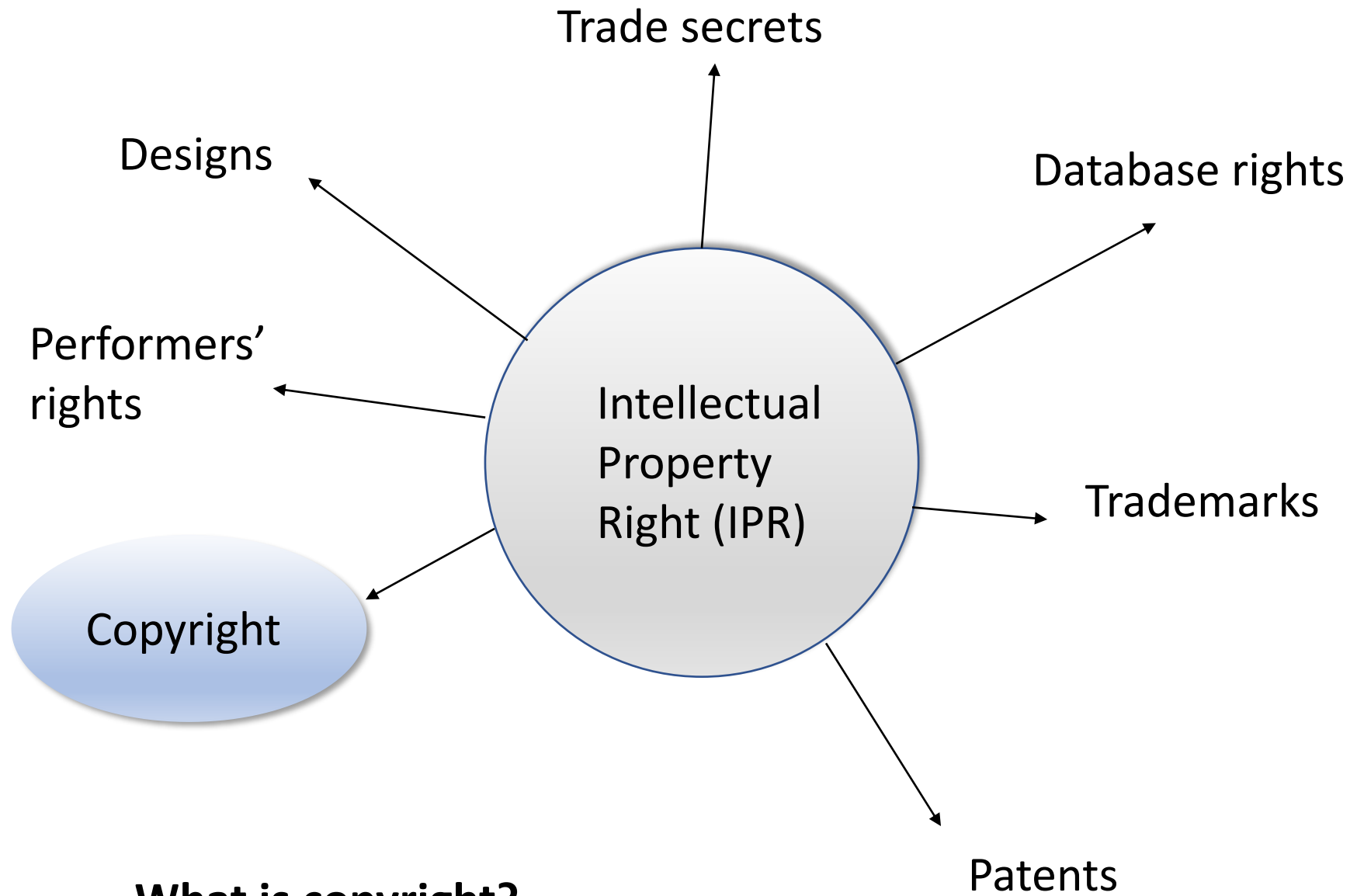
Instagram: Consul Archivist



^P
Part 1: Introduction to Copyright in Irish Law



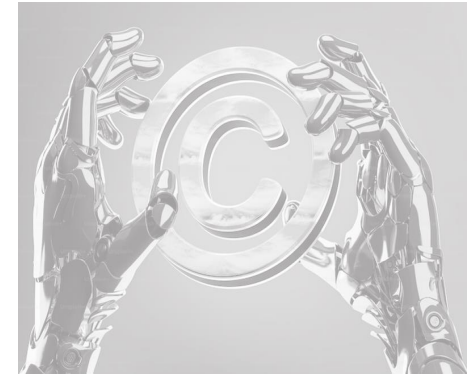
What is copyright?



What is copyright?

Related rights

- Performers, producers and broadcasters of works have related rights
- Holders of related rights are entitled to remuneration for use of work and how it can be used



Moral rights

- Copyright and Related Rights Act 2000 provides for protection of moral rights
- For example, **paternity right** = right to be identified as author of work
- For example, **integrity rights** = right of author to object to any distortion, mutilation or other modification of their work

What is copyright?

- Copyright is the legal right given to the creator or **author** of work for a fixed number of years
- Copyright is automatically assigned and does not require registering or use of copyright symbol in Ireland
- Copyright only protects the physical expression of an idea, not an idea in the abstract
- To be copyrighted, the work must be original and show some level of skill
- Copyright holder has the right to reproduce, disseminate and publish the material
- The copyright owner can be an organisation or individual
- When the owner dies, copyright transfers to individuals or organisation
- When the duration of copyright expires, the work falls into the public domain and may be used freely
- NB Copyright is separate from ownership of an item or object



What is Irish copyright law?

- Primary legislation governing copyright in Irish Law is **Copyright and Related Rights Act 2000**
- Has been amended subsequently by further legislation and provisions
- Including **Copyright and Other Intellectual Property Law Provisions Act 2019**
- Also corpus of Irish case law which amplifies and interprets the statutory provisions
- Since joining the EU, all Irish law must conform to EU jurisdiction



Other copyright and related rights primary legislation effective in Irish Law (selected)

- Broadcasting Act 2009 (No. 18 of 2009, Section 183)
- Copyright and Related Rights (Amendment) Act 2007
- Copyright and Related Rights (Amendment) Act 2004
- Intellectual Property (Miscellaneous Provisions) Act 1998
- Copyright (Amendment) Act 1987
- Performers Protection Act 1968
- Copyright Act 1963



What is Irish copyright law?

Regulations implementing EU copyright and related rights legislation into Irish law (selected)

- European Communities (Artist's Resale Right) (Amendment) Regulations 2022 (SI No 375 of 2022)
- European Union (Copyright and Related Rights in the Digital Single Market) Regulations 2021 (SI No 567 of 2021)
- European Union (Marrakesh Treaty) Regulations 2018 (SI No 412 of 2018)
- The European Union (Collective Rights Management) (Directive 2014/26/EU) (Amendment) Regulations 2016 (SI No 156 and 616 of 2016)



What is Irish copyright law?

International Agreements or Treaties effective in Irish law (selected)

- **Berne Convention for the protection of literary and artistic works (1886)** - protection of works and rights of authors, musicians, poets, painters, how to control works and how used and by whom, on what terms
- **Rome Convention for the protection of performers, producers of phonograms and broadcasting organizations (1979)** – protection in performances for performers, in phonograms for producers of phonograms, and in broadcasts for broadcasting organisations
- **Beijing Treaty on Audiovisual Performances (2012)** – regulating copyright for audio-visual performances and performers' rights



What is Irish copyright law?

- Copyright law highly complex and constantly evolving
- Ambiguous terminology in copyright law, including 'substantial', 'non-commercial', and 'reasonable', means it is not black and white



How does copyright impact upon your organisation?

- It is likely that material in your archive or museum collection will still be in copyright
- It is likely that you will not be the copyright owner for at least some material = **third party copyright**
- Everyone working in your organisation has a legal and ethical obligation to respect the copyright of others, know their responsibilities, and realise opportunities



What are the copyright risks for your organisation?

- Infringement (abuse) of copyright law includes reproduction (making a copy including online), without permission of the copyright owner or a licence
- Also selling of copyright works
- Also making work available to public
- Also, making adaptation of work
- Infringement can result in criminal or civil proceedings, eg awarding of damages, taking down of copies, and injunctions preventing further use



Copyright ownership

- The copyright owner is usually the creator or **author** of a work

Exceptions include:

- Work created by employees at work, where the employer is the first owner of the copyright in the work (unless there is an agreement to the contrary, eg a journalist)
- The author is not regarded as the owner of a work where the work is the subject of the government, the Oireachtas (Parliament), or prescribed international organisation
- Where copyright is conferred on another person by an enactment or transfer



What types of works does Irish copyright law protect?

Copyright exists in the following types of works

1. Literary works – original written work composed of words, numbers or symbols, eg novel, business letter, report, database, computer programmes
2. Dramatic or musical works – work designed to be performed, eg play
3. Artistic works – two-dimensional and three-dimensional works, eg maps, plans, drawings, paintings, photographs, seals, medals, maps, charts, plans, engravings, etchings, lithographs, woodcuts, prints, collage, sculpture, models, casts, architecture



What types of works does Irish copyright law protect?

Copyright subsists in the following types of works

4. Films – moving and still images, eg video, DVDs
5. Sound recordings – recording of sounds, not the work (such as a piece of music) is protected
6. Typographical arrangement – layout of page, eg typefaces, images, advertisements in newspaper page

NB Typographical arrangement can be in copyright even if the work itself is out of copyright.





Part 2: Copyright Duration in Irish Law

What does copyright duration depend upon?

- Type of work, eg literary, dramatic, musical or artistic; sound recording; film; broadcast or cable programmes; typographical arrangement of published editions
- Whether it is an **orphan work** = material where the creator is unknown
- When the work was created or first published
- When the work was first made available to the public
- Whether the work is Government or Parliament owned
- Whether the work is published or unpublished



Copyright duration in Irish law: Literary, dramatic, artistic works, original database

Published work from 1 January 2001

- Copyright duration = 70 years from end of calendar year in which author died

Unpublished (of any date)

- Copyright duration = life + 70 years (new in 2019 Act, previously apparently perpetual due to error)

Anonymous author

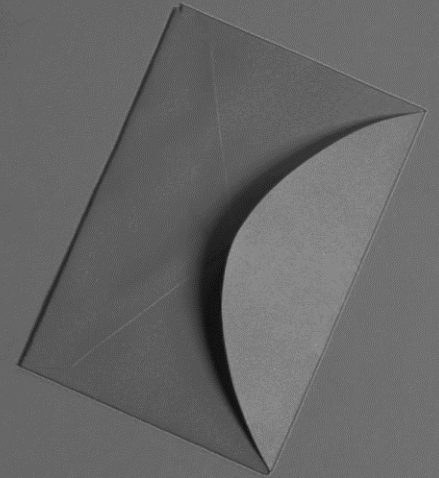
Created on or after 1 January 2001

- Creation + 70 years or publication + 70 years if published within 70 years of creation (unless it is reasonable to presume that the author has been dead for at least 70 years)

Anonymous author

Created before 1 January 2001

- Creation or publication + 70 years



Copyright duration in Irish law: Film

Known author

Film created on or after 1 January 2001

- Copyright duration = life + 70 years after the last of the following people dies:
 - Principal director of film
 - Author of screenplay of film
 - Author of dialogue of film
 - Author of music specifically composed for use in film



Copyright duration in Irish law: Film

Anonymous film (creators unknown)

Film created on or after 1 January 2001

- Copyright duration = a time when it is reasonable to presume that all of the persons connected with the film have been dead for at least 70 years

Known author

Film created between 1 October 1964 and 31 December 2000

- Copyright duration = life of the last of the persons connected with the film + 70 years



Copyright duration in Irish law: Film

**Film created between 1 October 1964
and 31 December 2001**

Anonymous author (creators unknown)

- Uncertain

Film created before 1 October 1964

- Treated as a sequence of photographs
and as a dramatic work if appropriate



Copyright duration in Irish law: Sound recording

- Copyright duration = creation + 50 years if published within 50 years of creation and after 31 December 1962



**Copyright duration in Irish law:
Broadcast or cable programme**

- Copyright duration = broadcast or inclusion within cable programme service + 50 years



Copyright duration in Irish law: Typographical arrangement

- Copyright duration = 50 years after date first made available to the public



Copyright duration in Irish law: Government and Oireachtas (Parliament)

Government copyright

- Copyright duration = creation + 50 years

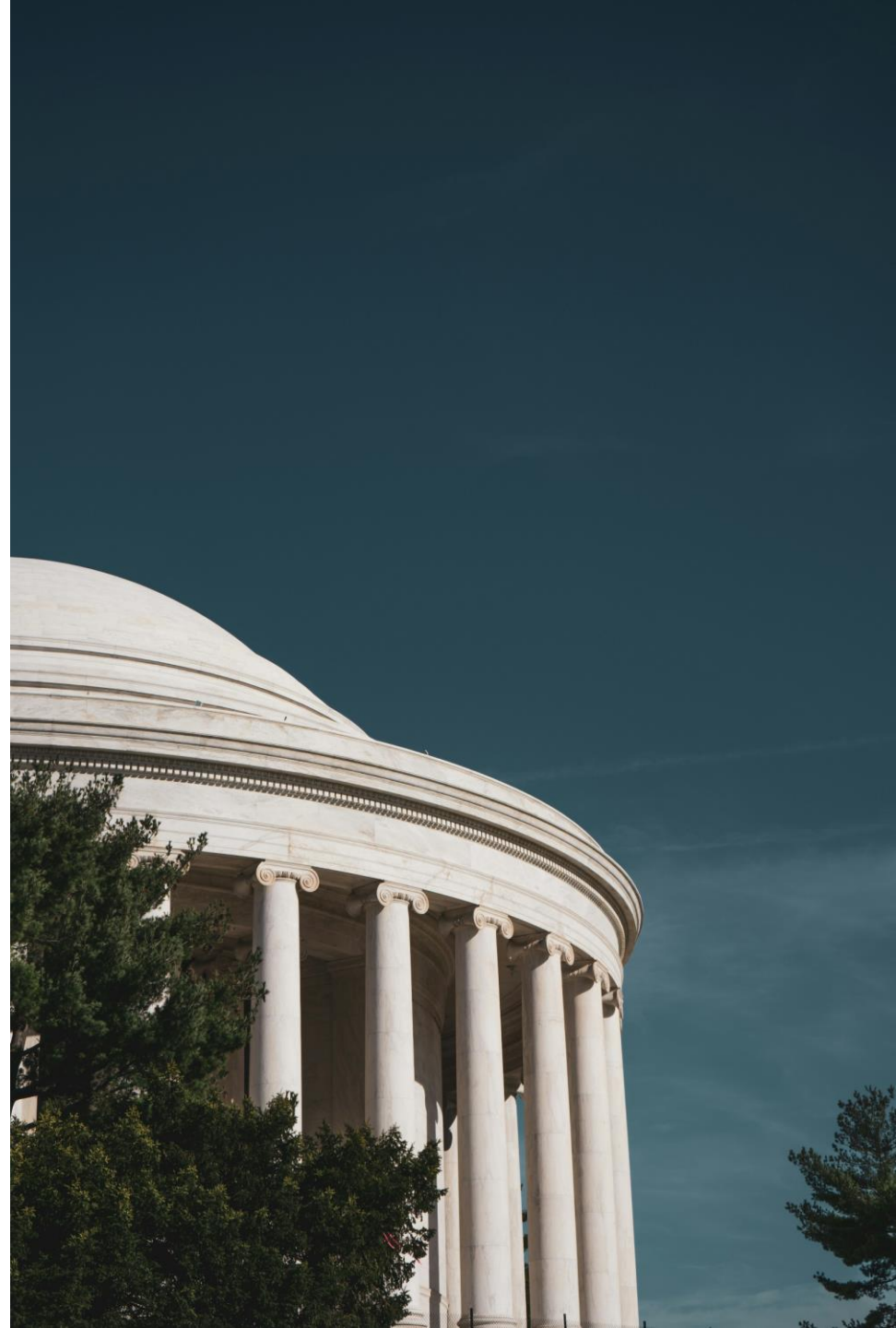
Bill or enactment, copyright of Oireachtas (Parliament)

- Copyright duration = publication + 50 years

Oireachtas (Parliament) copyright

Any unpublished work, or any published work created on or after 1 January 2001

- Copyright duration = creation + 50 years





Consultant Archivist

Session 1: Introduction to Copyright

Ellie Pridgeon

www.consultantarchivist.co.uk
ellie@consultantarchivist.co.uk

Twitter: @consularchivist

Instagram: Consul Archivist