

A close-up photograph of a person's hands holding a professional camera. The camera is black and has a lens attached. The person is wearing a dark blue shirt. The background is dark and out of focus.

The ABC of copyright for new entrepreneurs

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1 The ABC of copyright for new entrepreneurs

Do you know how you manage your intellectual property rights (IPR) as an entrepreneur? IPR mean rights to immaterial property. It's worth knowing the basics of IPR before you set up your company. It could even affect what name you choose to give your business. From a business perspective, immaterial rights are crucial. Business owners and companies acquire them to protect their interests. By acquiring them, you can limit competitors' activities and thus gain competitive advantage.

This guide is aimed at new entrepreneurs. You are either just registering your business or have just started out. With the help of this guide, you will know the basics of copyright and will be able to find more information on the issues that are important for your business. Every entrepreneur and person intending to become one is guaranteed to run into IPR issues. By learning about them, you can also avoid big bills.

This guide focuses on copyright, because it is worth knowing the minimum about it at the start of your business career to avoid accidentally infringing someone else's copyright. You are liable for compensation even if the infringement was unintentional. Thus, you have to know what is legal. This is why this guide focuses precisely on copyright questions, so you can avoid infringing someone else's copyright.

This is not an exhaustive guide to copyright, but it will get you started and show you how to find out more. The guide now in front of you quotes the Entrepreneur's Copyright Guide. In addition, **Albert Mäkelä**, an IPR expert at Suomen Yrittäjät, was interviewed for it.

2 What are intellectual property rights (IPR)?

Intellectual or immaterial property rights (IPR) include copyright and industrial property rights such as patents, trademarks and design rights.

Copyright is one form of protecting an immaterial right. Other equivalent forms of protection include trademark rights, patent rights and utility model rights.

Unfair commercial practice covers the gaps between them.

Examples of works which enjoy legal protection once they meet the threshold of originality:

- Photographs
- Computer programs
- Databases
- Written materials
- Graphic and visual design



3 What is copyright?

Copyright is an essential part of every business's strategy and business plan. The rights enjoyed by copyrighted works, and the protection of them, can form a considerable share of a business's operations. The management, protection and defence of copyright demands an active and strategic approach to guarding IPR. Copyright protects creative work.

Know the risks – avoid pitfalls

In their activities, businesses often also use protected works created by others, such as written materials, music and audio-visual material. Businesses need to know the contractual and permit contracts that pertain to such use.

They also have to recognize the associated risks. Copyright infringement may lead to liability for compensation and penalties. A business may be liable to pay compensation and face penalties even if it acted in error – this is not a mitigating circumstance in copyright.

Draw up a copyright contract

Copyright belongs to the person who made the work, that is, the natural person who created the work. This is one of the most important principles of copyright law and the associated system.

Business owners should remember copyright when forming partnerships and engaging subcontractors. When a company signs contracts with subcontractors, freelancers or other external partners, it must agree on rights on a case-by-case basis with due consideration for each contracting party's needs.

Copyright is not automatically transferred from its holder, rather the transfer of copyright must always be agreed. It is important to explicitly agree on the right to alter the work and the right to transfer copyright. These rights are not transferred from the holder unless specifically agreed.

Copyright questions should also be considered in employment, if a company's employee produces copyrighted material that the employer wants to use.

4 When is copyright formed?

Under the Copyright Act:

A person who has created a literary or artistic work shall have copyright therein, whether it be a fictional or descriptive representation in writing or speech, a musical or dramatic work, a cinematographic work, a photographic work or other work of fine art, a product of architecture, artistic handicraft, industrial art, or expressed in some other manner. Maps and other descriptive drawings or graphically or three-dimensionally executed works and computer programs shall also be considered literary works.

Copyright is the exclusive right of the author of the work to decide on how the right is exercised. The exclusive right also includes the right to deny use of the right. The author's exclusive right is restricted by statutory limitations that exist for societal and practical reasons.

A work is the result of creative work

For copyright protection to exist, the work must be the result of independent and original creative work. Independent means that the work stands out from previous works.

A work may not be a copy or imitation of another work. Originality means that the work must be the author's creative work: if someone else started making an equivalent work, he or she would not reach the same results.

Meeting the threshold of originality

The work must meet the threshold of originality. If the work meets the threshold of originality, its creator receives the statutory protection for his or her work. If the threshold is not met, then the work it does not receive any protection under the Copyright Act.

One example is a sofa suite manufactured according to a collection designed by an interior architect, which the Finnish Supreme Court ruled as unprotected by copyright law.

Copyright is automatically formed when a work is created, nor does it require any kind of registration or any other actions. The list of works in the Copyright Act is not exhaustive, which means that copyright can also protect other products of creative work than those listed above.

5 What cannot be protected by copyright?

Copyright does not cover ideas, principles, information, topics or themes.

Anyone can write a book or paint a picture on the same topic as someone in the past. In the same way, anyone can write an article about the same event using the same information and facts that another journalist used to write an article.

In the case of a written or artistic work, protection applies to written or artistic execution, that is, to the choices the author made when creating the work.

Thus, information and facts may be used freely; copyright protection does not extend to them.



Do not confuse with freedom of speech

It is worth remembering that freedom of speech is not the same thing as copyright. Copyright law does not restrict the universal rights to freedom of speech and expression. For example, the author of a written work may not prevent another person from using the information contained in the work in her own written work or a review.

6 Be careful with material found online

Just because material is available online, it does not mean that it can be freely used. Copyright law applies online just as it does elsewhere. It may not be presumed that the author has surrendered his or her copyright, even though the material is freely readable or linkable. Using another person's articles or other materials requires permission or consent.

You may quote a published work, but the quoted section and source must be clearly cited. A quotation must properly cite the author's work.

When copying images online, always remember that getting permission beforehand is the surest way of avoiding problems later. Some images and services come with various terms of use which explain how they may be used. An example of this is the Creative Commons licence. This allows for material to be used without separate permission.

Read more about the Creative Commons licence: www.creativecommons.org



7 Social media is no exception

The provisions of copyright law also apply on social media. So if you post copyrighted material on Facebook or another social network without prior permission, you could face consequences for copyright infringement.

More than one person or body may face consequences for such rights infringement:

- Anyone who imports, mediates or links to material (such as a Facebook user)
- Anyone who maintains the site (such as a person responsible for maintaining a Facebook page and his or her company)



The copyright symbol is not decisive

Use of the copyright symbol, ©, has no legal significance in terms of Finnish copyright protection. However, there is nothing to stop a copyright holder from using the © symbol to express his or her desire to retain his or her copyright and require others to honour that right. If the requirements for copyright protection are not met, however, the © symbol does not create that protection.

8 A private person has the right to private copying – a company does not

A private person may take a few copies from a completed work. This provision is intended only for situations in which the copies are taken for personal use.

A company may not justify its activities with the provision on taking a private copy.

A company must obtain permission, either from the author directly, the copyright holder or a copyright association, to share copies of articles or book chapters at lectures, for example.



Even accidental infringements may put a business on the hook for compensation

Copyrights must be respected. If you use copyrighted material without permission, or break the Copyright Act in other ways, you may have to pay the copyright holder monetary compensation and damages.

The obligation to pay compensation does not require intent or negligence. This means that even though the user of the work did not know, and was not supposed to know, that he or she was using the protected work illegally, he or she is obligated to pay compensation for the infringement of economic rights.

Infringement of copyright may also cause liability for damages. Using works against the law may also be punishable under criminal law.

9 How long is copyright valid?

Copyright expires 70 years after the year of the author's death. During this period, the works are copyrighted. After the author dies, copyright is transferred to either his or her heirs or spouse. They may also be transferred to the beneficiary of his or her will. Heirs or beneficiaries of the will become copyright holders rather than authors. They administer the rights for 70 years after the author's death.

Photographs have a shorter protection period

An important exception applies to photographs. Only some photographs receive true copyright with the aforementioned long copyright period.

Most photographs are protected by related rights included in the Copyright Act. In this case, the copyright subsists for 50 years from the date the photograph was taken.



Copyright also applies to music

The copyright association Teosto represents composers, lyricists, arrangers and music publishers.

Gramex represents musicians and producers. The organisations represent various Finnish and foreign rights holders. They both have the right and authority to sign contracts on the use of music, for example, in hairdressing salons.

To make obtaining permission easier, Gramex and Teosto jointly founded GT Musiikkiluvat Oy, a company to which you can easily apply for permits to play music on business premises: www.musiikkiluvat.fi

More information

Yrittäjät.fi

- You can find more information online on the Suomen Yrittäjät website:
www.yrittajat.fi » Entrepreneur's ABC » Innovations and immaterial property

Entrepreneur's copyright guide

- In addition, you should read the joint copyright guide produced by the Confederation of Finnish Industries, the Finland Chamber of Commerce and Suomen Yrittäjät (in Finnish): **The Entrepreneur's copyright guide**
This guide, about 30 pages long, is available on the website of the Confederation of Finnish Industries:
www.ek.fi » EK vaikuttaa » Yrityslainsäädäntö » Teollis- ja tekijänoikeudet (IPR)

Advisory service for Suomen Yrittäjät members

- Suomen Yrittäjät members can also ask for further information about copyright issues by calling the national phone advisory service. The advisory service is only intended for Suomen Yrittäjät members, and the contact details are at www.yrittajat.fi/neuvontapalvelut

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