

Intellectual property on the Internet

Section A: Digital copyright

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5.1 The need for international copyright harmonisation to protect intellectual property on the Internet

5.1.1 The need for international law reforms

1

The new WIPO treaties

5.2 Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS)

5.2.1 General overview

5.2.2 Outline of TRIPS framework

minimum level of substantive rights

dispute resolution procedures

horizontal or general principles

National treatment

Most favoured nation

5.2.3 TRIPS and copyright and related rights

bis

5.2.4 The Berne Convention: overview

What are the qualifications for protection?

material form

fixation in a

**Who is the beneficiary of the protection under Berne?
author and his successors in title**

How does the protection arise?

**What protections does the Berne Convention provide?
Economic rights**

Moral rights (not included within TRIPS)

right of paternity

³ Hint for remembering the difference:
source code can be spoken; object code
has spaces.

Feist.

⁴ See Scafidi, S. 'The "Good Old Days" of TRIPs: The US Trade Agenda and the Extension of Pharmaceutical Test Data Protection,' 4 *Yale J. Health Pol'y L. & Ethics* 341, 343 (2004).

Advanced Copyright Issues on the Internet

Treatise: Legal Protection of Digital Information

Essential reading

WIPO, *About IP*. Chapter 5: International Treaties and Conventions on Intellectual Property, pp.270–277 – Substantive Provisions of the WCT. Available at: <http://www.wipo.int/about-ip/en/iprm/pdf/ch5.pdf#wct>

The WIPO Copyright Treaty (including Agreed Statements). Statute book, pp.304–308.

Ginsburg, J.C. 'The New (?) Right of Making Available to the Public', Columbia Law School, Paper No. 0478, *Columbia Public Law and Legal Theory Working Papers* (New York: Columbia Law School, 2004). Available at: <http://lsr.nellco.org/columbia/pllt/papers/0478/>

This paper analyses whether WIPO solved the problem it sought to address and how different WIPO is from Berne in its interpretation.

Activity 5.1

Go back to your chart and add sections for Berne, TRIPS and the WCT. Now fill in the chart with the basics of the provisions of these treaties. This will be a very helpful revision tool.

5.3 Related rights

Producers of sound recordings

Broadcasting organisations

What limitations/exceptions to these rights exist?

What is the minimum term of protection?

How do the rights arise?

5.3.3 Related rights since Rome

TRIPS

Essential reading

WIPO, *About IP*. Chapter 5: International Treaties and Conventions on Intellectual Property, pp.314–320 – Special Conventions in the Field of Related Rights: The International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations ('the Rome Convention'). Available at:
<http://www.wipo.int/about-ip/en/iprm/pdf/ch5.pdf#wct>

The WIPO Performances and Phonograms Treaty. Statute book, pp.308–314.

Conclusion

inter alia

Reminder of learning outcomes

By this stage you should be able to:

- identify the key international copyright instruments that address the protection of Internet works and digital rights management devices
- explain how they operate with regard to the Berne Convention
- explain why the WIPO Internet treaties were considered necessary
- explain the provisions in the WIPO treaties that provide new copyright and related rights protection to digitised works online
- explain what a digital rights management device is
- identify some of the current digital rights management technologies and explain how they work
- explain the WIPO treaty provisions regarding the enforcement of digital protection measures
- analyse why the digital rights management protection provisions cause concerns with respect to user's rights under copyright
- identify the legal instruments that implement the WIPO treaties in the US, EU and UK.
- outline the provisions of the Digital Millennium Copyright Act
- outline the provisions of the Information Society Directive.