

Attribution of copyright in the academic environment

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Attribution of copyright in the academic environment

I. Works created by employees and commissioned works in the Cypriot legal system

II. The limits of the application of the automatic transfer of rights rule to academics

III. Works created by students

I . WORKS CREATED BY EMPLOYEES AND COMMISSIONED WORKS

Article 11 of the Law 59/1976

Where the doing of a work is commissioned by a person who is not the author's employer under a contract of service or apprenticeship, or is made in the course of the author's employment as part of his duties under his contract of employment, the copyright shall be deemed to be transferred to the person who commissioned the work or to the author's employer, subject to any agreement between the parties excluding or limiting such transfer.

Commissioned works

- As regards contracts for services in the field of research the situation is rather straightforward because the creation of the work will normally be the result of the provision of services
- The rule will apply even if the question is not expressly regulated by contract or even if the contract is not in writing

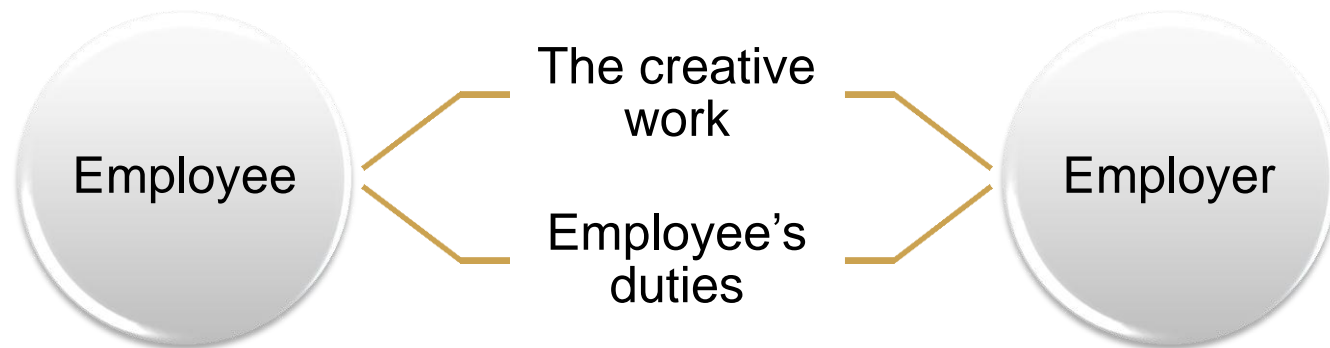
The moral right of the author

Article 7 (4) of Law 59/1976

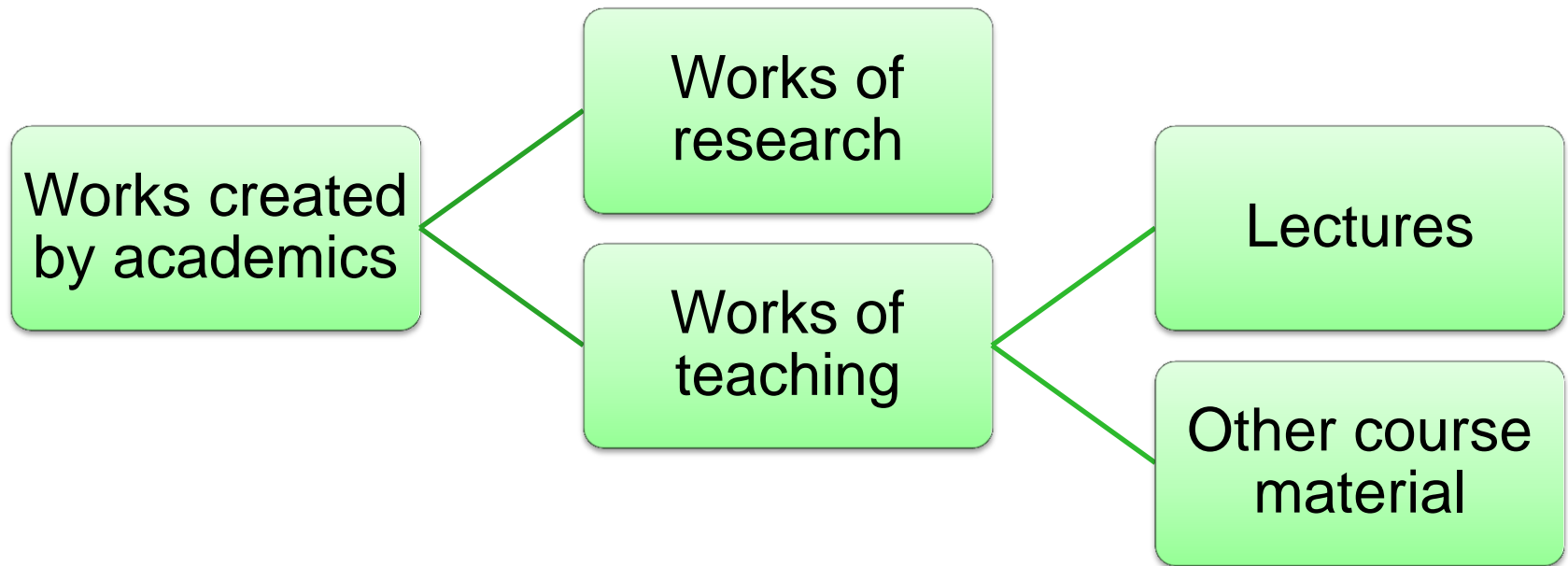
Copyright in a work includes the right of the author, during his lifetime, to claim authorship of the work and to object to any distortion, mutilation or other alteration thereof which would be prejudicial to his honour or reputation.

Works created by employees

The automatic transfer of economic copyright to the employer occurs only if the work is created as part of the employee's duties under his contract of employment.



II. THE LIMITS OF THE APPLICATION OF THE AUTOMATIC TRANSFER OF RIGHTS RULE TO ACADEMICS



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These categories of works can be protected by copyright :

- if they are original
- under the condition that they have been reduced to writing, audio recorded, recorded in any way by electronic or other means or have otherwise been reduced to some material form.

A. WORKS OF RESEARCH

The supremacy of academic freedom which guarantees the absolute freedom of the academic to choose the content and the method of his research and the lack of hierarchical control during the creative process conclude to the non-application of article 11 to academic works of research

A. WORKS OF RESEARCH

The recognition of the academic as the sole owner of his work of research presupposes that even in the case the University wishes to adopt an open archive institutional policy, the consent of the author is necessary.

A. WORKS OF RESEARCH



B. WORKS OF TEACHING

- The question of copyright ownership will determine whether the educational institution needs the consent of the author in case it wishes to use the lecture for new activities, such as in distance learning programs.
- It will further determine whether the academic institution has the right to use the lecture and other teaching material after the termination of the employment contract without the author's consent.

B. WORKS OF TEACHING

Academic freedom which also covers the activity of teaching and de facto customs seem to have established the faculty member's ownership of creative works, including this of lectures and related course material.

The US «teacher exception»

- *Williams v. Weisser*, 273, Cal. App. 2nd 726 (1969)
- *Hays v. Sony Corp. of America*, 847 F.2d 412, 416 (7th Cir. 1988).

B. WORKS OF TEACHING

- Every use of these works which cannot be based on a copyright exception is subject to the authorization of the author of the work and to the payment of remuneration
- The recording of the oral lectures, their archiving and their further use are also subject to data protection rules

III. WORKS CREATED BY STUDENTS

- The main issue is whether the conditions of creation of a work, such as a study, a an architectural design or a computer program, could result to a work of joint-authorship
- Only the close interaction, the creative collaboration and the detailed control of the supervisor over the final form of the work could conclude to a regime of co-authorship

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Thank you for your attention!

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