7. Film and Other Audiovisual Works

Director Juho Kuosmanen with the film crew of the film Kaupunkilaisia-Citizens. Films are typically created by more than one author.

Photo: Nina Hauki.

Regarding the concept of a work

The Copyright Act protects creative work and its authors. Copyright arises when a work is created: it arises in conjunction with the creation of the work. In accordance with the Act, protection begins without formalities as soon as the work is created, i.e. registration or the use of the © sign is not required.

A work in receipt of copyright protection is an independent and original result of the intellectual creative work of its author. The Copyright Act includes an exemplar list of protected works. Works include, for example, a film, video work, direction, composition, photograph, literary and oral performances, choreography, set design, costume design, sound works, reports, brochures, computer applications, databases, maps, plays, choreographies, drawings, paintings, buildings and industrial art products. The list is not exhaustive. A work may manifest in any form. A film and other audiovisual work may be subject to a number of copyrights and performers’ and record producers’ related rights at the same time. A work is taken to mean an abstract concept in the Copyright Act, which is immaterial in quality, that is, intangible. A copy, conversely, is taken to mean a concrete reproduction of the work.

Copyright protection belongs to the author of the work, that is, the person who created the work. A copyright can be created to a natural person only. Societies and companies, for example, a publisher or film production company, may receive copyright protection only based on the rights transferred to them by the original authors.

Film and other audiovisual works

An audiovisual work combines images and sound into a single entity. Audiovisual works are typically works created by more than one author, where the authors function, for example, as film script writers, directors, directors of photography, editors, scriptwriters, costume designers or sound designers.

Subcategories of audiovisual works include films, multimedia works, music videos, experimental video works, games, etc. The genre or type of work depends on the individual characteristics of the work. What is discussed in this section in regards to film works are in part applicable to other audiovisual works.

Film

Films are works regardless of whether they are documentary, fiction or experimental, or a film work defined in some other way, such as a commercial, silent film or an animation. Also, short video clips, whose forum is, for example, Youtube, are film works.

A film work may be recorded onto film or videotape, DVD, master tape, a computer hard disk, mobile phone memory, etc. The technology or format used to record is not significant in assessing the birth of a copyright. As far as the Copyright Act is concerned, film works have traditionally been equated with all comparably expressed works, such as video and multimedia works. The concept of film is therefore to be understood quite broadly.

In accordance with the international Bern Convention, film as a concept covers all film works and works expressed in a manner comparable to film, regardless of their type, length, method of creation, the technical process used, intention or author. (Guide to the Berne Convention, WIPO, 1978, pg. 15-16). In accordance with the Berne Convention, “in a manner comparable to film” refers not so much to the method of creation, but the form the resultant work takes, which is analogous with film. The method of creation for a work receiving protection as film therefore does not have to be analogous with a film. On this basis, also a live broadcast may be considered comparable to a film work, thus receiving copyright protection, provided that it meets the prerequisites of originality.

In accordance with the preparatory documents for, and the sense intended by, the Copyright Act, film works are taken to mean works consisting of moving images or moving images together with sounds, as well as other works expressed in a manner comparable with film, which meet the prerequisites of originality. This definition covers, in addition to films traditionally recorded on celluloid, works broadcast on television, works recorded on a video format and other works created using cinematic means. (Committee Report 1990:31: The reproduction and distribution of phonograms and audiovisual works pg. 31). This expression is taken to concern material which is recorded, for example, on the hard drive of a video camera or computer, memory stick, memory card or mini-DV tape, from which a subsequent film work is created. Also, uncut material including moving images may well constitute a work.

A film work may contain very different elements: film, maps, photographs, other imagery such as graphics, text, music, computer animation, newspaper articles, bird sounds, computer applications etc. As far as copyright is concerned, it is not essential that the images in the film work are figurative, or that they form a connected sequence when presented in succession. After the film has been cut, there is usually a lot of unused footage, the fate of which is always good to agree upon, as also this material is subject to copyrights.
Typical to film is the illusion of movement, which manifests as moving images or moving images together with sounds. Each frame of a film is a photograph or a photographic work and is protected in accordance with the provisions regarding the photograph and photographic works as is defined in the Copyright Act. The photograph and photographic work are discussed in the section Fine art and Photography.

Games

Games may receive protection as audiovisual works. In this case, a game may be considered a subcategory of film. That section of a game, where the game is not still, i.e. where the gameplay and audiovisual entity varies each time, in accordance with the player’s instructions, may be protected directly as an audiovisual work. The demarcation between a game that is protected as a computer application, and a film or other audiovisual work can be difficult. Games are discussed in the section on computer applications and games. What is discussed in this section in regards to audiovisual works and film, is however applicable to games, in as far as games can be regarded film works or other audiovisual works.

Multimedia work

CD-ROM recordings are typical multimedia products, where one entity has been created from moving images, photographs, music, text and computer applications etc. There are no specific provisions in the Copyright Act regarding multimedia works. Multimedia can be regarded as an artistic or literary work, a collective, joint or film work, or a compilation. A multimedia work, which does not meet the prerequisites of originality may receive protection as a database in accordance with Section 49 subsection 1 and 2 or the Copyright Act. Multimedia works, like any other work, may also include material that is excluded from copyright protection, such as a recording of birdsong in the nature. The choice of the type of work influences the copyright protected content of the multimedia work, as different types of work are regulated, in part, differently, although the main copyright principles for all works are the same. Some of the Act's provisions apply only to literary works, where others apply to film works, some again to photography and others only to works of fine art etc. In some cases, a multimedia work is seen as a whole, which is naturally perceived as one audiovisual piece, which is principally a film work.