



**COPYRIGHT
COMPLIANCE**

practical steps to stay
within the law

PAUL PEDLEY

Contents

Acknowledgementsix
Disclaimerix
Figures and tablesxi
Legislationxiii
Case lawxv
Abbreviationsxvii
1 Introduction	1
1.1 Copyright compliance is both a legal and an ethical issue	2
1.2 Policing acts of copying	3
1.3 Why is there so much legal uncertainty?	5
1.4 Terminology used in the Database Regulations	8
2 Copyright basics	13
2.1 What is copyright?	13
2.2 What does copyright protect?	13
2.3 Requirements for copyright	14
2.4 Who is the owner of copyright?	16
2.5 How long does copyright last?	16
2.6 Copyright exceptions	19

PART 1	COPYRIGHT INFRINGEMENT AND WHAT HAPPENS WHEN THINGS GO WRONG	.21
3	What constitutes infringement, and what are its consequences?	.23
3.1	What constitutes infringement?	.23
3.2	Primary infringement	.24
3.3	Secondary infringement	.24
3.4	What are the consequences of copyright infringement?	.25
3.5	Civil proceedings	.26
3.6	Criminal offences	.27
3.7	Remedies	.29
3.7.1	Reputation management	.32
3.8	Moral rights	.33
3.9	Cease and desist letters	.34
4	What are low, medium and high risk activities, and how can you minimize the risks?	.37
4.1	Risk management	.37
4.2	How can your business reduce the risk of infringement?	.41
5	Some copyright legal cases and what we can learn from them	.43
6	Enforcement of intellectual property rights	.61
6.1	Legislation	.63
6.2	Trading standards	.65
6.3	Evidence required in criminal cases	.67
6.4	The role of internet service providers in tackling file sharing	.68
6.5	Gowers Review recommendations on enforcement	.71
6.6	National IP Crime Strategy	.72
7	Dispute resolution	.75
7.1	Court	.76
7.2	Copyright Tribunal	.77
7.3	Alternative dispute resolution	.78

7.4	Arbitration	79
7.5	Mediation	79
7.5.1	UK IPO mediation service	81
7.6	Jurisdiction	83
PART 2 HOW TO STAY WITHIN COPYRIGHT LAW		85
8	How to ensure that your copying is properly authorized	87
8.1	Is your copying authorized?	87
8.1.1	Statute	87
8.1.2	Permission	90
8.1.3	Contract	91
8.1.4	Licence	96
8.2	Can I copy?	99
8.3	Fair use and the PNAM tests	100
8.4	Copyright declaration forms	103
8.5	Creative Commons	104
8.6	Public domain	106
8.7	Keeping within the terms of licence agreements	107
9	The copyright clearance process	109
9.1	Pre-clearance issues and preparation	110
9.2	Clearing the required rights	111
9.3	Tracing copyright holders	113
9.3.1	Tracing the rightsowner for American content	114
9.3.2	Orphan works	116
9.3.3	Copyright Clearance Center	121
9.3.4	HERON	121
9.4	Sample forms	121
10	Practical steps you can take to stay within copyright law	127
10.1	Copyright posters and notices	127
10.2	Staff training and awareness	128
10.3	Organizational documentation	130
10.4	Checklist of key things for keeping legal with copyright	131

11 The copyright implications of freedom of information and the re-use of public sector information	133
11.1 Freedom of information	133
11.2 Environmental Information Regulations (EIR)	135
11.3 Re-use of public sector information and copyright	136
12 Developing a copyright policy	139
12.1 Creating a policy	140
12.2 Communicating the policy	141
12.3 Enforcing the policy	142
Appendix Sample clauses for inclusion in a copyright policy ..	145
Further information	147
Index	149