

INDEX

- abuse *see* dominance abuse
- acquis communautaire*
 - CJEU role in EU Copyright law
 - development 20.04, 20.05, 20.06, 20.10, 20.13, 20.15, 20.16, 20.27, 20.43
 - compatibility concerns, piracy and
 - Anti-Counterfeiting Trade Agreement (ACTA) 15.198–204, 15.233, 15.234
 - EU mandate and international stance 19.01–3
 - evolution of copyright law 1.14–18
 - harmonisation 1.14–18
 - Software Directive 5.03
- algorithms, lack of protection, Software Directive 5.27
- anonymous works and date of the author's death rule, Term Directive 8.15
- Anti-Counterfeiting Trade Agreement (ACTA)
 - Avaaz online petition against 17.27
 - compatibility of injunctions and blocking orders and fundamental rights 15.175
 - Digital Agenda initiative 17.17, 17.27
 - Enforcement of Intellectual Property Rights Directive, assessment reports (Article 18) 12.213–14
 - EU ratification call 15.27
 - Group of Eight (G8), and
 - Anti-Counterfeiting Trade Agreement (ACTA), piracy, policies and actions in fight against, third countries, non-legislative actions 15.261
 - piracy policies *see* piracy, policies and actions in fight against, third countries, legislative actions,
 - Anti-Counterfeiting Trade Agreement (ACTA)
 - ratification call, and piracy 15.27
- Anton Piller Orders 12.82
- application in time
 - Berne Convention 2.08
 - Information Society Directive (Article 10) 11.173–4
 - Orphan Works Directive (Article 8) 13.59–60
 - Rental and Lending Rights Directive (Article 11) 6.103
 - Resale Right Directive (Article 10) 10.87
 - Satellite and Cable Directive (Article 7) 7.55–7
 - Term Directive *see* Term Directive, application in time (Article 10)
- ARROW (Accessible Registries of Rights Information and Orphan Works) 13.42–5, 16.90–97, 16.120
- artists and artworks
 - art galleries acquiring works directly from the author 10.29
 - artistic work definition, Berne Convention (Article 2) 8.11
 - Artists' Collecting Society (ACS), UK 10.55
 - Artist's Resale Rights Regulations, UK 10.80
 - Design and Artist's Copyright Society (DACS), UK 10.55
 - Irish Visual Artists Rights Organisation (IVARO), Ireland 10.55
 - local artists, encouragement of proactive support 10.93
 - performing artists and producers of phonograms, related rights, WPPT 8.26, 8.29

- Resale Right Directive *see* Resale Right Directive, works of art to which resale right relates (Article 2)
- Resale Royalty Right for Visual Artists Act, Australia 10.64
see also authorship; creative industries
- audiovisuals *see* cinematographic and audiovisual works
- Australia
EU resale rights' royalties 10.64–8
Internet access blocking 15.127
Resale Royalty Right for Visual Artists Act 10.64
- Austria
collective rights management 10.55
collective rights and obligation to contract with users 14.59
duration of authors' rights 8.01
indirect reproduction 11.08
lump sum punitive damages payments 12.189
Meteodata v Bernegger Bau 11.08
Private International Law Act 18.76
resale right, term of protection 10.81
resale right transposition 10.18, 10.20, 10.77, 19.55
UPC Telekabel Wien 11.170, 15.152
- authorship
art galleries acquiring works directly from author 10.29
'author as creator' rule 1.15
'author's own intellectual creation' (CJEU) 9.13–14, 20.06, 20.09–11
computer programs *see* Software Directive, authorship of computer programs (Article 2)
confusion over concept (CJEU) 20.05
Database Directive 9.13–14, 9.17–19
death of author *see* death of author
duration of authors' rights, Berne Convention (Article 7) 8.01, 8.13, 8.15, 8.22, 8.44–5, 8.53, 8.67
fair compensation, and harm suffered by the author (CJEU) 20.45, 20.47
Information Society Directive, distribution right (Article 4) 11.39–40
Information Society Directive, right of communication to the public (Article 3) 11.15
moral rights, author's name on digitised work 16.75
multiple authors and owners, Orphan Works Directive (Article 2) 13.29
photographic reproduction and author verification (CJEU) 20.41–2
presumption of authorship, IPRED *see* Enforcement of Intellectual Property Rights Directive (IPRED), presumption of authorship or ownership (Article 5)
principal director of cinematographic work as author 6.41–2, 8.20
Rental and Lending Rights Directive 6.38–42, 6.61, 7.33, 7.36, 7.45–7, 7.55–7, 8.20, 11.175–7
Satellite and Cable Directive (Article 1) 7.33, 7.36, 8.20
Term Directive, cinematographic or audiovisual works (Article 2) 8.19–21
see also artists and artworks
- back-up copies, Software Directive 5.105–6
banking documents disclosure 12.70–78, 12.107
see also financial information disclosure
- Beijing Treaty on Audiovisual Performances
see international stance, Beijing Treaty on Audiovisual Performances
- Belgium
Belgian Association of Newspaper Editors v Google 11.12
Code of Private International Law 18.76
duration of authors' rights 8.01
Johan Deckmyn 11.86
rental right as exclusive right 6.15
reproduction right 11.12
resale right 10.02
resale right transposition 10.20
torpedoes and cross-border litigation 18.21
transfer of property and assignment of copyright 21.36

- Berne Convention
- application in time 2.08
 - competition by extension 4.20
 - computer programs as literary works (Article 1) 5.07–12
 - copyright protection, automatic (Article 5) 13.39
 - database definition 9.01
 - derivative works, translations and adaptations protection (Article 2) 5.66
 - duration of authors' rights (Article 7) 8.01, 8.13, 8.15, 8.22, 8.44–5, 8.53, 8.67
 - IPRs and piracy 15.06, 15.11
 - literary or artistic work definition (Article 2) 8.11
 - models and designs 2.08
 - moral rights (Article 6) 1.16, 5.12, 5.93, 8.54
 - national treatment principle 2, 20, 1.04, 2.05, 2.08, 2.11, 2.14, 2.16, 2.17, 2.18, 5.12
 - official works, exemption of (Article 2) 9.34
 - originality assessment 5.35
 - piracy, policies and actions in fight against 15.06
 - presumption of authorship or ownership (Article 15) 12.43–6, 12.49
 - principal director authorship (Article 14) 6.42
 - prohibition on formalities (Article 5) 5.12
 - protection, comparison of terms of 2.08
 - protection of photographs (Article 2) 8.44
 - resale right (Article 14) 2.08, 2.17, 10.06–7, 10.25, 10.31, 10.50–51, 10.59
 - resale right, post mortem restrictions (Article 14) 10.50–51
 - resale right, reciprocity principle (Article 14) 10.59
 - resale right, term of protection (Article 7) 10.78–9
 - reservation of ten-year period regarding translations 2.08, 2.17
 - retaliation against back-doors protection 2.08, 2.17
 - satellite broadcasting right (Article 11) 7.37
 - three-step test (Article 9) 5.125, 11.70
 - transfer of rights (Article 14) 19.15
 - bilateral agreements, and piracy *see* piracy, policies and actions in fight against, third countries, legislative actions, bilateral agreements
 - black-box testing, Software Directive (Article 5) 5.107–9, 20.49–50
 - blind and visually impaired, status of goods produced for 19.33, 19.35, 19.36, 19.37, 19.39, 19.40, 19.43–4, 19.46
 - blocking orders, and Internet piracy *see* piracy, policies and actions in fight against, Internet piracy, legislative actions, compatibility of injunctions and blocking orders and fundamental rights
 - borders *see* cross-border measures
 - broadcasting
 - and communication to the public *see* Rental and Lending Rights Directive (Directive 2006/115), broadcasting and communication to the public (Article 8)
 - encrypted broadcasting 3.10
 - ephemeral recordings of works made by broadcasting organisations for their own broadcasts, Information Society Directive 11.11, 20.43
 - film/audio heritage and public service broadcasters, Orphan Works Directive (Article 1) 13.08
 - fixation right, Rental and Lending Rights Directive (Article 7) 6.79–80
 - football matches, filming and broadcasting 21.15–19
 - graphic user interface (GUI) broadcasting, exclusion of, Information Society Directive (Article 3) 11.23
 - innovation, *Green Paper on Copyright and the Challenge of Technology* 1.07

- international protection *see* international stance, Draft Treaty on the Protection of Broadcasting Organisations
- motion pictures, broadcasting and cable transmission (CJEU) 1.06
- organisations, duration of related rights, Term Directive (Article 3) 8.30
- organisations, freedom to conduct a business, Charter of Fundamental Rights (Article 16) 20.33
- organisations, national treatment principle 2.09
- Orphan Works Directive (Article 1) 13.08, 13.13–16
- performance of services and non-applicability of principle of Community exhaustion of rights 3.08–9
- related rights duration, Rental and Lending Rights Directive (Article 14) 8.26
- right in country of origin, Information Society Directive 7.35
- Satellite and Cable Directive *see* Satellite and Cable Directive (Directive 93/83)
- signal encryption, TFEU (Article 56) 7.22–3
- Television without Frontiers Directive 7.02
- transmission to public (CJEU) 7.12, 7.14
- webcasting and simulcasting, inclusion of, Draft Treaty on the Protection of Broadcasting Organisations 19.27
- see also* cable transmission; cinematographic and audiovisual works
- Brussels I Regulation
 - piracy *see* piracy, policies and actions in fight against, internal market and at external borders, civil enforcement of copyright and related rights, Brussels I Regulation
 - private international law *see under* intellectual property and EU rules on private international law
- Bulgaria
 - counterfeit and pirated goods 15.04
 - resale right transposition 10.19
- business community cooperation
 - guides for EU businesses operating in third countries, piracy policies 15.104
 - piracy and Anti-Counterfeiting Trade Agreement (ACTA) 15.228–9
- cable transmission
 - motion pictures, broadcasting and cable transmission (CJEU) 1.06
 - performance of services and non-applicability of principle of Community exhaustion of rights 3.08–9
 - Rental and Lending Rights Directive (Article 8) 6.83
 - Rental and Lending Rights Directive, fixation right (Article 7) 6.80
 - retransmission right in Scandinavian countries 21.43
 - Satellite and Cable Directive *see* Satellite and Cable Directive (Directive 93/83)
 - see also* broadcasting
- caching, Internet service providers (ISPs) liability 11.161, 11.163, 11.164
- Canada
 - EU-Canada Comprehensive Economic and Trade Agreement (CETA) 15.240
 - lump sum punitive damages payments 12.189
- Charter of Fundamental Rights
 - broadcasting organisations' freedom to conduct a business (Article 16) 20.33
 - fundamental rights and principles 12.24
 - Information Society Directive, exceptions and limitations 11.79–80, 11.85
 - intellectual property rights 11.104
 - national treatment policy 2.11
 - piracy policies and failure to comply with several key provisions 15.203, 15.204
- China
 - China IPR SME Helpdesk 15.246
 - counterfeit and pirated goods 15.04

- EU resale rights' royalties 10.73–4
 EU-China talks on IPRs 15.242
 IPR2 technical assistance project 15.245
- cinematographic and audiovisual works
 Anti-Counterfeiting Trade Agreement (ACTA), criminal measures for the unauthorised copying (camcording) 15.224
 authors, Satellite and Cable Directive definition (Article 1) 7.33, 7.36, 8.20
 Beijing Treaty on Audiovisual Performances *see* international stance, Beijing Treaty on Audiovisual Performances
 fan films 4.20
 film exploitation agreements, Satellite and Cable Directive (Article 7) 7.59
 film licensing, Satellite and Cable Directive (Article 9) 7.69
 film performance fixation, Term Directive (Article 3) 8.35
 film producers, Rental and Lending Rights Directive (Articles 3 and 9) 6.51–4, 6.100
 film producers, special rule for longer protection, Term Directive (Article 3) 8.29
 film/audio heritage and public service broadcasters, Orphan Works Directive (Article 1) 13.08
 online dissemination of works 1.21, 1.24
 Orphan Works Directive (Article 1) 13.13–16
 principal director of cinematographic work as author 6.42, 8.20
 Rental and Lending Rights Directive (Article 3) 6.44–6
 Rental and Lending Rights Directive, definitions (Article 2) 6.35–7
 rights ownership, CJEU role in EU Copyright law development 20.27–8, 20.48
 Satellite and Cable Directive, acquisition of broadcasting rights (Article 3) 7.43
- Term Directive *see* Term Directive, cinematographic or audiovisual works (Article 2)
see also broadcasting; creative industries; phonograms; sound recordings
- CJEU *see* Court of Justice of European Union (CJEU)
- co-production agreements
 Satellite and Cable Directive (Article 7) 7.60–62
see also producers
- code *see* source code
- collecting societies
 Artists' Collecting Society (ACS), UK 10.55
 criticism of definition 14.17
 Digital Agenda initiative, realisation problems 17.24
 Greece 12.39
 influence, Satellite and Cable Directive (Article 10) 7.75
 multi-territorial and multi-repertoire licensing, online rights in musical works 21.14
 Orphan Works Directive (Article 3) 13.34, 13.48
 Resale Right Directive, persons entitled to receive royalties (Article 6) 10.53, 10.57
 Satellite and Cable Directive 7.31–2
 Satellite and Cable Directive, cable retransmission right 7.64, 7.68, 7.71–2, 21.43
 Satellite and Cable Directive definition 14.16
 TFEU (Article 12) 12.40
- collective licensing
 Orphan Works Directive (Article 1) 13.20, 13.62
 Satellite and Cable Directive (Article 3) 7.40–42
see also licensing
- collective rights management
 conflict avoidance, Digital Agenda initiative, realisation problems 17.24

- Information Society Directive *see*
 Information Society Directive
 (Directive 2001/29), exceptions and
 limitations (Articles 5 and 6.4), fair
 compensation, remuneration and
 collective management link
- Memorandum of Understanding, Orphan
 Works Directive (Article 1) 13.21–4
- Rental and Lending Rights Directive,
 unwaivable rental right to equitable
 remuneration (Article 5) 6.64
- Resale Right Directive, persons entitled to
 receive royalties (Article 6) 10.52–7
- rights enforcement and professional
 defence bodies 12.37–40
- Satellite and Cable Directive, definition
 (Article 1) 6.64
- Collective Rights Management Directive
 (Directive 2014/...) (musical works for
 online use) 14.01–84
- addressees (Article 44) 14.83–4
- derogation requirements for radio and
 television programmes 14.72
- Digital Agenda initiative, delays and
 divisions 17.15–17
- Digital Agenda initiative, digital single
 market 17.07
- dispute resolution (Article 36A) 14.73–4
- European Licensing Passport, Digital
 Agenda initiative 17.16
- expert group to assess impact (Article
 41A) 14.80–81
- general assembly of members (Article 7)
 14.41–3
- harmonisation, need for 14.01–2
- independent management entities (Article
 2) 14.14, 14.17
- legitimate online music services 14.03,
 14.05
- national differences 14.04
- notification of collective management
 organisations (Article 41) 14.79
- overview 14.01–8
- personal data protection (Article 41B)
 14.82
- rightholders' representation and collective
 management organisations 14.23
- scope (Article 2) 14.13–14
- subsidiarity principle 14.07
- supervisory function of persons who
 effectively manage collective
 management organisations (Article 9)
 14.44–5
- transparency and good governance 14.02,
 14.05, 17.16
- users' obligations (Article 15A) 14.60
- Collective Rights Management Directive
 (Directive 2014/...) (musical works for
 online use), annual transparency report
 (Article 20) 14.61–3
- 'diligent searches' 14.63
- exclusions of specific groups 14.63
- groups benefiting from 14.63
- information obligations and categories of
 recipients 14.63
- information sharing 14.61–2
- orphan works 14.63
- repertoire and rights information 14.63
- territorial coverage 14.63
- Collective Rights Management Directive
 (Directive 2014/...) (musical works for
 online use), deductions and payments
 in representation agreements (Article
 14) 14.51–3
- non-discrimination in treatment between
 members and non-members 14.52
- reciprocal agreements 14.51, 14.52–3
- time factors 14.53
- 'type B agreements', end of 14.52
- Collective Rights Management Directive
 (Directive 2014/...) (musical works for
 online use), definitions (Article 3)
 14.15–22
- collecting society 14.16–17
- collecting society, criticism of definition
 14.17
- consumer 14.20
- director 14.19
- management fees 14.21
- membership criteria 14.18
- online reproductive rights in musical
 works 14.22
- publishers, rights transferred to 14.18,
 14.39

- right holder 14.18
 right holder categories, distinction
 between 14.19
 rights revenue 14.21
 user 14.20
- Collective Rights Management Directive
 (Directive 2014/...) (musical works for
 online use), distribution of amounts
 due to rightholders (Article 12)
 14.46–50
 deductions granted 14.49
 exploitation protection 14.48
 identification and location of rights
 owners 14.50
 membership data, importance of accurate
 14.47, 14.50
 time factors 14.50
 transparency in pricing 14.48
- Collective Rights Management Directive
 (Directive 2014/...) (musical works for
 online use), general principles (Article
 4) 14.24–7
 impact assessment report 14.25
 indispensability test 14.27
 obligation to act in best interests of
 members 14.26
 representation of rightholders 14.24–5
- Collective Rights Management Directive
 (Directive 2014/...) (musical works for
 online use), information exchange
 between competent authorities (Article
 39A) 14.75–8
 complaints procedures 14.77
 national obligations 14.76, 14.77
 prior authorisation and supervision
 requirements 14.78
 sanction types or measures, lack of specific
 rules 14.78
 subsidiarity principle 14.77
- Collective Rights Management Directive
 (Directive 2014/...) (musical works for
 online use), licensing (Article 15)
 14.54–9
 dominant position abuse 14.56–7
 ‘economic value in trade’ 14.55, 14.56
 licensing negotiations conducted in good
 faith 14.54
 tariff level clarification, need for 14.55
 tariffs determined on basis of objective
 criteria 14.54–5, 14.58
 users, obligation to contract with
 14.59
 voluntary licensing 14.55
- Collective Rights Management
 Directive (Directive 2014/...)
 (musical works for online use),
 multi-territorial licensing access
 (Article 30) 14.69–71
 direct licensing without withdrawal
 of mandates by right holders
 14.71
 information obligation of the mandated
 organisation 14.70
 ‘passport holder’s obligation to represent
 another collective management
 organisation 14.70
 ‘passport’ route, non-compliance effects
 14.69
 ‘passport’ route and SMEs 14.69
- Collective Rights Management Directive
 (Directive 2014/...) (musical works for
 online use), multi-territorial licensing,
 accurate and timely payment to right
 holders 14.67–8
 cultural diversity considerations 14.68
 market concentration risk 14.68
 repertoire aggregation 14.68
- Collective Rights Management Directive
 (Directive 2014/...) (musical works for
 online use), multi-territorial licensing
 in internal market (Article 21) 14.64–6
 competitive results, lack of 14.64, 14.66
 ‘passport’ option on repertoire 14.66
 restrictions 14.65
 safeguards 14.65
- Collective Rights Management Directive
 (Directive 2014/...) (musical works for
 online use), non-members rights
 (Article 6A) 14.38–40, 14.52
 decision-making participation 14.40
 extended collective licensing regimes
 14.38, 14.40
 orphan works 14.39
 statutory licensing regimes 14.40

- Collective Rights Management Directive
 - (Directive 2014/...) (musical works for online use), rights of rightholders (Article 5) 14.28–37
 - contract law and ‘express consent’ specifically for each right or category of rights 14.36–7
 - determination of categories of rights or types of work 14.32
 - flexibility in management of copyright and related rights, need for 14.33
 - freedom of choice 14.31
 - freedom to grant or withdraw rights management authorisation 14.35, 14.36
 - information on choices, availability on 14.34
 - mandatory requirements and unfair trading conditions 14.30
 - non-discrimination principle 14.29
- Collective Rights Management Directive (Directive 2014/...) (musical works for online use), subject matter (Article 1) 14.09–12
 - exclusions 14.12
 - national standards 14.10
 - rightholders’ remuneration for derogations from the exclusive right in respect of public lending 14.12
 - transparency and good governance 14.09
- collective works category, Database Directive (Article 1) 9.18
- Comité des Sages report, cultural heritage 16.25, 16.42
- commercial advantage definition, Rental and Lending Rights Directive (Article 2) 6.31–2
- commercial exploitation concerns, folklore and traditional cultural protection 19.49, 19.50
- commercial purposes, possession for, Software Directive (Article 7) 5.133
- ‘commercial scale’ definition 12.09–10, 12.13, 12.72, 12.108–9, 15.82–3
- communication to the public
 - cable retransmission 7.29
- CJEU, role in EU Copyright law development 20.23–6
- Database Directive (Article 5) 9.24
- EU Copyright Law, working towards 21.46
- graphic user interfaces (GUIs) 20.26
- Information Society Directive 11.79
- Information Society Directive (Article 5) 7.38, 9.24
- Satellite and Cable Directive (Article 1) 7.08, 7.09–15, 7.19–20, 7.29
- Community exhaustion rule
 - free movement of goods principle 3.04–5, 3.06–9, 3.11
 - Software Directive *see* Software Directive, restricted acts (Article 4), Community exhaustion rule *see also* exhaustion
- Community Trademark and Design Courts 21.10
- compensation
 - costs of proceedings, IPRED (Article 13) 15.54
 - fair *see* fair compensation
 - pecuniary, IPRED 12.24, 12.171–2, 12.175, 12.176, 12.182, 12.187–8
 - rightholders, Orphan Works Directive 11.106, 13.54–5, 16.86
 - security, IPRED (Article 9) 12.134–5, 12.148
- competition and competitiveness
 - competition by extension 4.20, 4.62, 4.67
 - competition by imitation 4.17–18
 - competition by substitution 4.17–18, 4.62
 - competitive results, lack of, multi-territorial licensing in internal market 14.64, 14.66
 - and efficiency 4.16
 - elimination, *IMS* case 4.33, 4.50–54, 4.58, 4.63, 4.68
 - elimination, *Microsoft* case 4.27, 4.33, 4.40, 4.55–62, 4.63, 4.64, 4.73–4, 5.119, 5.140

- essential facilities principle, TFEU
 Article 102 4.01–3, 4.17–18, 4.20, 4.62, 4.67
- freedom of goods and services rules, EU
 Copyright Law, working towards 21.21
- internal market, Resale Right Directive 10.08–9
- legal ineffectiveness, Satellite and Cable Directive 7.80
- computer programs
 and copyright databases 11.27
 creative re-use possibilities 16.13–14, 16.39
 download-to-own (DTO) market, Information Society Directive (Article 3) 11.33
 elements as literary works 5.11
 elements protection (CJEU) 5.28–30
 exhaustion rule and intangible copies (CJEU) 5.86–8
 forms of expression (CJEU) 5.16
 Legal Protection of Computer Programs Directive *see* Legal Protection of Computer Programs Directive
 as literary works 1.08, 5.07–12
 originality assessment 5.33
 Rental and Lending Rights Directive (Article 4) 6.55–7
 rental right, WIPO Copyright Treaty (WCT) and TRIPs 5.67
 reproduction right exclusion 11.10
 right of ‘making available to the public’ 11.27
 Software Directive *see* Software Directive
 software distribution concept (CJEU) 20.19–21
 software reproduction/adaptation (CJEU) 20.15
 source codes *see* source codes
 ‘work’ concept (CJEU) 20.13
see also Software Directive
- Conditional Access Directive (Directive 98/84)
 broadcasting signal encryption 7.22
 technical protection measures 11.108
- confidentiality protection
 IPRED, evidence, measures for preserving (Articles 6 and 7) 12.62, 12.81, 12.88–9
 and national law, E-Commerce Directive 12.116
see also personal data protection; privacy protection
- consumers
 contracts 18.51–2
 demand for downstream/facilitated product 4.64
 end-users *see* end-users
- contracts
 agreements’ preference, Technical Protection Measures (TPMs) 11.99
 consumer contracts 18.51–2
 contractual freedom, Rome I Regulation 18.44–6
 ‘express consent’ specifically for each right or category of rights 14.36–7
 termination rights 8.37
- copies *see* reproductions
- COPIS database, piracy policies 15.122, 15.123
- copyright
 contract rules *see* EU Copyright Law, working towards, copyright contract rules, need for
 enforcement mechanisms, Digital Agenda initiative 17.17
 exceptions and transformative fair use, essential facilities principle 4.19
 freedom of expression, Information Society Directive 11.81–3
 laws as regulatory barrier, Digital Agenda initiative 17.06, 17.10
 protection conflict, folklore and traditional cultural expressions 19.50
 protection and privacy, conflict between, IPRED (Article 8) 12.125
 protection terms, Rental and Lending Rights Directive (Articles 11 and 12) 8.68
 reforms achieved, Digital Agenda initiative 17.11–13

- Rental and Lending Rights Directive
6.73–4, 8.68
- validity issues, Brussels I Regulation *see*
under intellectual property and EU
rules on private international law,
Brussels I Regulation, Article 24(4)
(exclusive jurisdiction rule)
- Copyright Directive (Directive 2001/29)
3.11, 3.13, 12.125
- collective licences 21.43
- communication to the public (Article 3)
6.84, 20.26
- Community exhaustion rule 5.83, 5.86
- computer program elements as literary
works 5.11
- copyright limitation and Memorandum of
Understanding (Article 5) 13.22
- device ‘primarily designed for the purpose
of circumvention’ (Article 6) 5.135
- education sector exceptions (Article 5)
21.59, 21.60
- exceptions and limitations and three-step
test (Article 5) 20.32, 21.53
- fair compensation (Article 5) 21.65
- knowledge, condition of 5.132
- ‘lawful user’ and ‘lawful use’ requirement
5.96
- moral rights of employees (Articles 79 and
81) 5.54
- online rights in musical works (Articles 2
and 3) 14.22
- personal data protection (Article 9) 12.125
- public lending rights (Article 4) 5.71
- ‘publicly accessible’, meaning of (Article 5)
13.06
- rental rights 5.68
- reproduction right (Article 2) 5.60, 5.62,
6.74, 6.76, 13.50
- ‘technological measures’ definition (Article
6) 5.135
- three-step test (Article 5) 21.56
- Copyright and Neighbouring Rights
Directive (Directive 2011/77)
- entry into force considerations (Article 2)
8.71
- modifications to Term Directive, and
application in time 8.61–2
- notification and communication
obligations (Article 3) 8.66, 8.71
- performers and producers of phonograms,
term of protection (Article 3) 8.32–9,
8.63–4
- technical adaptation, initial repeal 8.67–8
- Council of Europe
- Convention of Cybercrime 11.107, 15.13
- and piracy *see* piracy, policies and actions
in fight against, Internet piracy,
legislative actions, compatibility of
injunctions and blocking orders and
fundamental rights, Council of
Europe and the ECtHR
- counterfeiting *see under* piracy, policies and
actions in fight against
- country of origin rule
- Satellite and Cable Directive (Article 1)
7.16–18, 7.20, 7.34–6, 7.45, 7.87
- see also* national laws
- Court of Justice of European Union (CJEU)
- ‘author’s own intellectual creation’
definition 9.13–14
- autonomous notions of Community law
1.12
- Border Measures Regulation 12.97, 15.73
- broadcasting transmission to public 7.12,
7.14
- Brussels I Regulation, ‘special jurisdiction’
rule 15.58, 15.59
- collective management of rights 14.03,
14.11, 14.26, 14.27, 14.29, 14.30,
14.36, 14.48, 14.51, 14.52, 14.56,
14.57
- ‘communication to the public’ concept
11.19, 11.20, 11.22, 11.79
- computer program elements protection
5.28–30
- computer program forms of expression
5.16
- computer programs as literary works 5.11
- confidentiality and personal data 12.116
- consent of IPR owner and placement on
market 3.06
- copyright law evolution 1.11–13
- copyright levies 21.08
- copyright protection period 8.04–5

- copyright and specific subject matter
doctrine 1.05
- Customs enforcement of IPRs 15.274
- data collection, 'obtaining', understanding
of 9.37
- data extraction and re-utilisation 9.53–4,
9.59
- database definition 9.01
- database re-utilisation 11.25
- databases, systematic or methodical
arrangements 9.05
- disclosure of information provisions 15.43
- doctrine of implied licence 11.90–91
- dominance abuse, non-IP cases requesting
access to essential facility 4.31
- download-to-own (DTO) software market
11.33
- 'economic value of rights in trade' 14.56
- encrypted broadcasting 3.10
- exclusive jurisdiction rule 18.13–26
- exhaustion of distribution rights and free
movement of good (Article 28) 11.49
- exhaustion rule 1.05, 3.12
- exhaustion rule and intangible copies of
computer programs 5.86–8
- existence of copyright role 1.12
- fair compensation right 11.104, 21.65–6
- hyperlinking 11.29
- increased role since in reconciling
copyright and primary law 1.11–13
- 'independent material' definition 9.03
- information access and freedom of
expression 11.96
- infringement larger in scope in one
country than another 18.91
- intermediaries, understanding of term
15.52
- international exhaustion of distribution
right 3.16–17
- Internet piracy 15.143, 15.146–63
- IP and copyright recognition 0.02, 1.05
- IP and damages 12.181, 12.185
- IP and protection of the right to privacy
and the freedom of expression
15.143, 15.146–63
- ISP disclosure of information 12.121,
15.44
- ISP illegal content awareness 15.134
- ISP liability issues 11.153, 12.169
- lawful user concept 5.97–8, 9.56–7
- legitimate expectations, protection
principle 8.60
- lis pendens* provisions 15.60, 15.65
- mandatory limitation for transient copies
11.76
- moral rights, absence of 6.05
- motion pictures, broadcasting and cable
transmission 1.06
- multiple defendants 18.04–6, 18.07
- national treatment principle 2.12, 2.14–20,
9.72, 9.73
- national treatment principle, and country
of origin of work 2.17
- non-discrimination principle 14.29
- online transactions and principle of
exhaustion rule 3.12–14
- originality assessment debate 5.34–5
- originality concept 1.15
- parallel territorial IP rights 18.02
- pecuniary compensation 12.172
- personality rights 15.59
- portrait photography and originality 8.47
- preliminary ruling requests 1.12
- 'presentation of database information'
definition 9.41
- principal director of cinematographic work
as author 8.20
- principle of Community exhaustion of
rights 3.04–5, 3.07
- private copying exception 11.105
- 'public', notion of 11.31
- public-order legislation 18.42
- publication of judicial decisions, IP rights
12.198–204
- quantitative and qualitative assessment
definitions 9.36, 9.48
- referral on compatibility, piracy and
Anti-Counterfeiting Trade
Agreement (ACTA) 15.206, 15.208,
15.209
- rental issue harmonisation 6.03, 6.39, 6.46
- resale right 10.07, 10.13
- resale right, post mortem restrictions
10.46, 10.51

- resale right, reciprocity principle 10.60
 restricted acts of data extraction and
 re-utilisation 9.44
 restrictions on the freedom of movement
 of goods and services 1.08
 right of distribution concept 1.12
 right of information 15.149–50
 ‘sale’ interpretation 5.81
 sampling of work as evidence 12.63–9
 signal encryption and satellite
 broadcasting 7.21
 sound recordings, distribution rights 3.07
 sound recordings, import of 1.06
 ‘substantial and insubstantial’ investment’
 definitions 9.49–51
 transparency enhancement through
 harmonious interpretation,
 Information Society Directive
 (Article 5) 11.77–86
see also European Court of Human Rights
 (ECHR); European Free Trade
 Associatiuin (EFTA); individual
 countries
 Court of Justice of European Union (CJEU),
 cases
 ACI Adam BV 11.105
 Ahmet Yildirim v Turkey 15.170–72
 Airfield 20.23
 Akzo Chemie 4.14
 *Alessandro Tedesco v Tomasoni Fittings and
 RWO Marine Equipment* 12.97
 Amazon 11.105, 21.08, 21.62
 Apis 9.44, 9.50, 9.51
 Ashby Donald and others v France 11.81–3,
 15.173–4
 BHB 9.21
 Bonnier Audio 15.151
 Bronner 4.02, 4.31, 4.34, 4.35, 4.38, 4.45,
 4.51, 4.52, 4.54, 4.58
 BRT v SABAM 14.27
 BSA 20.11, 20.13, 20.26
 Cassina 1.12, 1.13
 CICRA v Renault 4.30
 Circul Globus București 20.23
 CISAC 14.03, 14.11
 Coditel 3.09, 3.10
 Commercial Solvents 4.29
 Commission v Germany 4.73
 Commission v Ireland 6.71
 Commission v Italy 6.71
 Commission v Portugal 6.46, 6.71, 6.98
 Commission v Spain 6.71
 Compass-Datenbank 4.06, 4.33
 Consten and Grunding 3.07
 Daftpunk 14.30
 *Der Grüne Punkt Duales System v
 Commission* 4.23
 Deutsche Grammophon 307
 Donner 11.36
 DR 20.33, 20.43
 Duijnstee v Goderbauer 18.14
 eDate Advertising 15.59
 Egeda 7.05
 EMI Electrola 2.15
 EMI v Patricia 8.03–5
 ENI 4.36, 4.39
 Flos 20.29–30
 Football Association Premier League (FAPL)
 3.10, 7.21, 11.76, 11.84, 13.58, 20.11,
 20.15, 20.23–4, 20.32, 20.36, 20.39,
 21.15–19
 Football Dataco v Yahoo UK! 9.14, 9.16,
 9.72, 9.73
 France Télécom 4.64
 Gasser 18.21
 GAT v LUK 18.13–20, 18.21, 18.22,
 18.23, 18.25
 GEMA I 14.20, 14.26, 14.36
 Hewlett-Packard Belgium 11.104
 Hilti 4.25
 Hoffman-La Roche 4.21
 Hofner 4.05
 IMPALA 4.71
 IMS 4.33, 4.50–54, 4.58, 4.63, 4.68
 Infopaq 1.12–13, 5.34, 5.62, 9.21, 11.76,
 13.58, 20.01, 20.03, 20.06, 20.10,
 20.13, 20.15–16, 20.29, 20.32, 20.34,
 20.38, 20.42, 21.07, 21.25
 Innoweb 9.54
 Intel 4.54
 ITV Publications v Time Out 4.43
 ITV v TV Catchup 20.25
 La Bohème 2.16
 Lagardère 6.92, 7.08, 7.09, 11.31, 18.91

- Laserdisken* 3.16–17, 11.95
Lippens 12.97
L'Oréal v eBay 9.46
LSG 11.76
Lucazeau 14.57
Luksan 20.27–8, 20.48
Magill 4.31, 4.33, 4.35, 4.43–8, 4.49, 4.51, 4.52, 4.54, 4.58
Marco Del Corso 11.31
Mars UK v Teknowledge 9.07
Martin Luksan v Petrus vander Let 6.54
MediaKabel 11.31
Metronome Musik 6.46, 6.97, 6.98
Microsoft 4.27, 4.33, 4.40, 4.55–62, 4.63, 4.64, 4.73–4, 5.119, 5.140
Ministère Public v Tournier 3.09
Netlog 11.153, 12.169, 15.44, 15.143, 15.147–8
Oracle 9.56, 9.57
Padawan 1.12, 1.13, 11.86, 20.44, 20.47, 21.08
Painer 11.84, 11.96, 18.07, 20.11, 20.16, 20.40–42, 21.07
Pammer and Hotel Alpenhof 15.59
Peak Holding v Axolin-Elinor 9.46
Peek & Cloppenburg 20.03, 20.17
Peter Pinckney v. KDG Mediatech 15.59
Phil Collins 2.15, 2.20, 8.57, 10.07, 10.13, 10.60, 14.29
Philips & Nokia 15.274
PPI 6.87, 11.31, 20.44
Promusicae 11.79, 12.116, 15.143, 15.149–50, 20.03
Rambus 4.28
Roche Nederland BV v Primus 18.04–6, 18.07
St Paul Diary v Unibel 12.97
SAS Institute 5.19, 5.28–30, 5.97–8, 20.49–50
Scarlet 11.153, 12.169, 15.44, 15.143, 15.147–8
SCF v Marco Del Corso 4.74, 6.84, 6.86, 6.87, 20.24
Sealink/Holyhead 4.68
SENA v NOS 1.12, 6.90–91
Sender Fellsberg 18.91
SGAE v Rafael Hoteles 7.05, 11.31, 20.03, 20.23, 20.24, 20.26
Shevill 18.02
Silhouette 11.61
Simulcasting 14.48, 14.52
Softwarová 5.15, 5.25, 5.34
Sol LeLos v GSK 4.29
Sportradar 11.25
Stichting de ThuisKopie 20.46–7, 20.48
STIM/Kanal 5 14.56
Svensson 11.29
Telemarketing 4.63
Tiercé Ladbroke 4.49, 4.64
Titus Donner 20.18–19
Tournier 14.51, 14.57
Turner 18.21
TV2 Danmark A/S 11.78, 11.86
TV4 14.56
UPC Telekabel Wien 11.170, 15.152–63
UsedSoft 1.12, 3.12–14, 5.86–9, 9.25, 11.32, 11.34, 20.15, 20.19–21, 20.51
VEWA v Belgium 6.68–9, 20.22
VG Wort 21.08, 21.65
Volvo v Veng 4.30, 4.48, 4.64
Warner Brothers v Christiansen 3.09, 6.03, 6.08, 6.21–2, 6.28, 6.97
Wintersteiger 15.59
 Court of Justice of European Union (CJEU),
 role in EU Copyright law development
 20.01–52
acquis communautaire assessment 20.04,
 20.05, 20.06, 20.10, 20.13, 20.15,
 20.16, 20.27, 20.43
 ‘author’s own intellectual creation’
 precondition 20.06, 20.09–11
 authorship of works, confusion over
 concept 20.05
 ephemeral recordings of works made by
 broadcasting organisations by means
 of their own facilities 20.43
Infopaq decision effects 20.06, 20.10, *see*
 also Court of Justice of European
 Union (CJEU) cases, *Infopaq*
 Information Society Directive effects 20,
 23, 20.03–4, 20.05, 20.10, 20.11,
 20.16, 20.21, 20.22

- moral rights and copyright ownership 20.04
- national copyright rules and Treaty freedoms, relationship between 20.02
- originality/creativity standard 20.08–12
- originality/creativity standard, portrait photographs 20.11
- originality/creativity standard, sporting events 20.11
- personal data disclosure 20.03
- reproduction right, confusion over concept 20.05
- rights ownership 20.27–8
- rights ownership, cinematographic works 20.27–8, 20.48
- term of protection 20.29–30
- term of protection, and Design Directive 20.29
- 'work' concept 20.05, 20.10, 20.13
- 'work' concept and computer programs 20.13
- Court of Justice of European Union (CJEU),
 - role in EU Copyright law development, exceptions and limitations 20.31–51
 - ephemeral recordings of works 20.33
 - fair compensation 20.45–8
 - fair compensation, cross-border context 20.46
 - fair compensation, and harm suffered by the author 20.45, 20.47
 - interpretation principles 20.32–3
 - Rental Right Directive 20.44, 20.48
 - Software Directive 20.49–51
 - Software Directive, and error correction 20.51
 - Software Directive, testing functioning of program 20.49–50
 - three-step test 20.32
- Court of Justice of European Union (CJEU),
 - role in EU Copyright law development, exceptions and limitations, optional exceptions under Information Society Directive 20.34–43
 - exceptions for the purposes of public security (Article 5(3)) 20.40–41, 20.42
 - exceptions for quotation (Article 5(3)) 20.40–41
 - photographic reproduction and author verification 20.41–2
 - transient reproduction of works Article 5(1) 20.34–9
- Court of Justice of European Union (CJEU),
 - role in EU Copyright law development, exclusive rights 20.14–26
 - communication to the public 20.23–6
 - communication to the public, graphic user interfaces (GUIs) 20.26
 - communication to the public, 'new public' concept 20.25
 - communication to the public, public performance right 20.23
 - distribution concept 20.03, 20.17–21
 - distribution concept, cross-border transactions 20.18–19
 - distribution concept, principle of exhaustion and software 20.19–21
 - public lending 20.22
 - reproduction/adaptation 20.15–16
 - reproduction/adaptation, photographic template 20.16
 - reproduction/adaptation and software 20.15
- Creative Content Online initiative 17.23–4
- creative industries
 - creative process, relevant persons involved in, cinematographic or audiovisual works 8.20, 8.22–3
 - employees (2008) 0.03
 - Europeana initiatives 16.46
 - GDP contribution 0.03, 17.09, 17.10
 - non-economic interests of creative people 1.22
 - see also* artists and artworks; cinematographic and audiovisual works
- creative re-use possibilities, computer programs 16.13–14, 16.39
- creativity enhancement, fair compensation, remuneration and collective management link 11.104
- criminal enforcement
 - cybercrime *see* cybercrime

- piracy and copyright *see* piracy, policies and actions in fight against, EU policies, criminal enforcement of copyright and related rights
- unauthorised copying of cinematographic works (camcording) 15.224
- see also* sanctions and remedies
- CRM *see* collective rights management
- cross-border measures
- access of content, Orphan Works Directive (Article 1) 13.02–3
- broadcasting and communication to the public, Rental and Lending Rights Directive (Article 8) 6.92
- distribution concept, CJEU role in EU Copyright law development 20.18–19
- evidence preservation, IPRED (Article 7) 12.97
- external borders with third countries 12.03–4
- fair compensation, cross-border context, CJEU), role in EU Copyright law development 20.46
- online access to orphan works, Digital Agenda initiative 13.03
- online sales, problems with, Digital Agenda initiative, digital single market 17.09
- pan-European licensing, Digital Agenda initiative 17.15
- piracy, and Anti-Counterfeiting Trade Agreement (ACTA) 15.219–20
- piracy and internal market *see* piracy, policies and actions in fight against, internal market and at external borders
- torpedoes and cross-border litigation, Brussels I Regulation 18.21
- see also* territoriality
- cultural aspects
- cultural expression *see* international stance, copyright exceptions and limitations, folklore and traditional cultural expressions, protection proposals
- cultural promotion objectives, Rental and Lending Rights Directive (Article 6) 6.68–70
- diversity considerations, multi-territorial licensing 14.68
- film/audio heritage and public service broadcasters 13.08
- policy weaknesses, Resale Right Directive 10.10
- cultural heritage, digitisation and copyright law 16.01–121
- access facilitation 16.05
- access to cultural heritage, unimpeded 16.09–12
- aims and benefits 16.07–16
- creative re-use possibilities and computer technology 16.13–14, 16.39
- culture definition 16.02
- Digital Agenda initiative 16.22
- digital qualitative viewing possibilities 16.12
- digitisation, meaning of 16.07–8
- digitised content accessibility 16.10
- economic benefits 16.15–16
- ‘European agenda for culture in a globalizing world’ 16.03
- mass digitisation and dissemination of works as means of protection 16.04
- public domain scope 16.50–53
- role of culture in digital age 16.01–6
- technical viability and innovation 16.15–16
- time-related benefits 16.11
- cultural heritage, digitisation and copyright law, digitisation of copyrighted material as special challenge 16.62–77
- digital rights 16.64
- economic rights 16.64–71
- exceptions to reproduction rights 16.67
- moral rights 16.72–7
- moral rights, author’s name on digitised work 16.75
- orphan works 16.62
- public availability 16.69–71
- public–private partnerships 16.68
- reproduction rights 16.65, 16.67
- right owners’ consent 16.66–7
- cultural heritage, digitisation and copyright law, heritage preservation 16.17–21
- definition 16.17

- instability of digital material 16.20
- objects in virtual sphere, importance of 16.21
- storage in digital file formats, benefits of 16.18–19
- technological obsolescence concerns 16.20
- cultural heritage, digitisation and copyright law, initiatives 16.22–49
 - Comité des Sages report 16.25, 16.42
 - Digital Agenda of the European Union 16.22
 - Europe 2020 strategy 16.22
 - European Digital Libraries Initiative 16.24
 - Europe's digital agenda so far 16.22–7
 - Green Paper on Copyright in the Knowledge Economy 16.25
 - i2010 European Libraries Initiative 16.23–4
 - legal harmonisation 16.26–7
 - Orphan Works Directive 16.27
- cultural heritage, digitisation and copyright law, initiatives, Europeana
 - accessibility and distribution 16.39
 - accumulation of digitised content that represents diversity of Europe's cultural heritage 16.37
- Application Programming Interface (API) 16.45
- collaborations and interoperations, encouragement of 16.43
- content organisation 16.41–4
- copyright compliance 16.48–9
- creative industries 16.46
- digitisation and sustainability 16.119, 16.120–21
- education-related users 16.45
- general public users 16.47
- ICT PSP programme funding 16.44
- innovative user participation 16.40
- knowledge exchange platform 16.35–6
- knowledge transfer, innovation and advocacy in cultural heritage sector 16.38
- launch 16.28–49
- as means to drive innovation and as tool to preserve cultural heritage 16.48–9
- national level aggregation 16.42
- online publishing programme on best practice guidelines 16.38
- role in digitisation process 16.28–33
- role in digitisation process, numbers of digital items available 16.32–3
- role in digitisation process, scope and aims 16.29–31
- Strategic Plan 2011–2015 16.34–40
- user contribution 16.42
- users 16.45–7
- cultural heritage, digitisation and copyright law, legal challenges 16.98–114
 - creators' interests 16.102–7, 16.102–8
 - cultural resources available 16.104
 - economic viability 16.102, 16.107, 16.109
 - interest implications 16.115
 - intermediaries 16.109–11
 - non-rivalrousness and non-excludability 16.106
 - public consumers/users 16.112–14
 - publicly funded (non-profit) interests 16.110–11
 - 'situatedness' 16.105
- cultural heritage, digitisation and copyright law, orphan works 16.78–97
 - ARROW (Accessible Registries of Rights Information and Orphan Works) 16.90–97
 - ARROW, components 16.05
 - ARROW, in eContentPlus programme 16.96
 - ARROW, scope 16.90–94
 - Europe 2020 Strategy 16.84
 - infringement risks 16.81
 - Orphan Works Directive 16.83–9
 - Orphan Works Directive, compensation rights (Article 6) 16.86
 - Orphan Works Directive, reproduction right limitations (Article 6) 16.86–7
 - Orphan Works Directive, search criteria (Article 1) 16.85
 - rights clearance obstacles 16.78–82
- cultural heritage, digitisation and copyright law, policy considerations 16.116–21
- ARROW implementation 16.120

- comprehensive European Digital Library, need for 16.120–21
- digitisation in public interest 16.117
- Europeana, digitisation and sustainability 16.119, 16.120–21
- orphan works, digitisation benefits 16.118
- public–private partnerships, importance of 16.120
- cultural heritage, digitisation and copyright law, public domain (re-)privatisation 16.54–61
- distinguishing between categories of works being digitised 16.56
- intellectual works sought to be registered as trademarks 16.58
- photographic reproductions of two- and three-dimensional cultural objects 16.55–6
- sui generis* database right 16.60
- technological access barriers 16.61
- through property law 16.59
- customs
- piracy and copyright *see* piracy, policies and actions in fight against, EU policies, customs enforcement of copyright and related rights
 - World Customs Organisation (WCO) 15.123, 15.256–8
- cybercrime
- European Cybercrime Centre (EC3) 15.115
 - plurilateral initiative (Council of Europe) 15.13
- Czechoslovakia, resale right 10.02
- damages
- actions, IPRED 11.148
 - awards, assessment problems and lack of deterrence, and piracy, 15.46, 15.50, 15.53, 15.54
 - claims, evidence preservation measures 12.96
 - IPRED *see* Enforcement of Intellectual Property Rights Directive (IPRED) (2004/48), damages (Article 13)
 - and right of information 12.110
 - see also* sanctions and remedies
- data analysis development, piracy, and EU's foreign policies on IPR enforcement 15.268
 - data files' format and programming languages, Software Directive (Article 1) 5.28–30
 - data interchange systems, and piracy *see* piracy, policies and actions in fight against, risk-analysis tools and electronic data interchange systems
 - data retention
 - E-Privacy Directive 12.116, 12.118, 12.119, 15.151
 - IPRED 12.119
 - Data Retention Directive (Directive 2006/24) 12.119
 - information disclosure 15.151
 - 'notice-and-take down' mechanism 15.144
 - 'serious crimes' definition 12.120
- database
- commercial digital databases with technical protection measures, Orphan Works Directive 13.58
 - computer programs and copyright databases, Information Society Directive (Article 3) 11.27
 - parallel databases, concerns over, Orphan Works Directive 13.40–41
 - Rental and Lending Rights Directive 9.10, 9.23
 - shared database identifiers, Orphan Works Directive (Article 3) 13.44–5
 - trade organisations, works falling outside scope of existing databases, Orphan Works Directive (Article 3) 13.35
- Database Directive (Directive 96/9) 1.08, 9.01–79
- application over time (Article 14) 9.75–7
 - beneficiaries of protection under *sui generis* right (Article 11) 9.68–9
 - Community exhaustion rule 5.83
 - database definition, Berne Convention 9.01
 - final provisions (Article 16), report requirements 9.79
 - 'lawful user' and 'lawful use' 5.96

- sanctions and remedies (Article 12) 9.70, 11.143
- see also* Software Directive
- Database Directive (Directive 96/9),
 - continued application of other legal provisions 9.71–4
 - licence protection 9.71
 - national legislation 9.72
 - public document access 9.71
 - sui generis* right 9.71
 - trademark protection 9.71
- Database Directive (Directive 96/9), lawful users, rights and obligations (Article 8) 9.55–60
- extraction and re-utilisation rights 9.58, 9.59
- insubstantial parts, use of 9.58–9
- lawful user concept 9.56–7
- sui generis* right 9.58, 9.59
- three-step test 9.59
- Database Directive (Directive 96/9), object of protection (Article 3) 9.12–16
- ‘author’s own intellectual creation’ definition 9.13–14
- data creation and collection, distinction between 9.37–9
- national legislation 9.72, 9.73
- sui generis* right 9.12, 9.14, 9.16, 11.110
- Database Directive (Directive 96/9), object of protection, *sui generis* right (Article 7) 9.31–54
- copyright subsisting in contents 9.52
- data collection, ‘obtaining’, understanding of 9.37
- data recorded from nature 9.37
- extraction rights 9.43–4
- information presentation and verification 9.40, 9.41
- Information Society Directive relationship 11.03
- infringements 9.48–54, 9.67
- as intellectual property right 9.31–2
- investment protection 9.33–5
- ownership provision, lack of 9.42
- protection requirement 9.33–41
- public lending right 9.47
- public sector databases 9.34
- quantitative and qualitative assessment, lack of definition 9.26, 9.48
- re-utilisation rights 9.43, 9.45–6, 11.25
- re-utilisation rights, exhaustion principle 9.46
- reasons for 9.32
- spin-off databases, lack of protection for 9.37
- substantial investment requirement 9.35
- substantial part and insubstantial part, lack of definition 9.49–51
- Database Directive (Directive 96/9), restricted acts (Article 5) 9.20–26
- communication to the public 9.24
- distribution rights 9.23, 11.37
- exhaustion of right 9.25
- infringements 9.26
- reproduction 9.21, 11.10
- right of communication to the public 11.16
- translation 9.22
- Database Directive (Directive 96/9), restricted acts, exceptions (Article 6) 9.27–30
- Information Society Directive relationship 11.03
- lawful user concept 9.27
- moral rights 9.30
- private reproduction exception 9.62
- reproduction 11.10
- sui generis* right 9.27–8
- teaching and research exceptions 9.63
- term of protection 9.30
- three-step test 9.29
- Database Directive (Directive 96/9), scope (Article 1) 9.01–8
- collection definition 9.02
- collective works category 9.18
- consultation materials 9.08
- copyright works 9.04
- database authorship 9.17–19
- database exclusions 9.03
- dominant position abuse prevention 9.02
- format of database 9.01
- ‘independent’ definition 9.03
- individual accessibility by electronic or other means 9.06

- ‘materials’ as works and data 9.04
 programs used in creation of databases 9.07
 systematic or methodical arrangements 9.05
- Database Directive (Directive 96/9), scope limitations (Article 2) 9.09–11
 rental and public lending rights 9.10
 Satellite and Cable Directive, lack of mention of 9.11
 Software Directive provisions, possible clash 9.09
sui generis right 9.09
- Database Directive (Directive 96/9), *sui generis* rights, exceptions (Article 9) 9.61–4
 private reproduction exception 9.62
 public security or administrative or judicial procedure exceptions 9.64
 teaching and research exceptions 9.63
- Database Directive (Directive 96/9), term of protection (Article 10) 9.65–7
 dynamic databases, perpetual protection 9.67
 qualitative or quantitative changes to database 9.66
sui generis right 9.65
- Davies, Gillian 19.01–61
de minimus rule
 EU Copyright Law, working towards, harmonisation of private copying levies 21.53
 EU rules on private international law, Rome II Regulation 18.91–2
- death of author
 anonymous works and date of the author’s death rule 8.15
 music composer in cinematographic works 8.24
 post mortem restrictions, persons entitled to receive royalties (Article 6) 10.46–51
 posthumous works, duration of authors’ rights 8.12
- decompilation (reverse engineering), Software Directive *see* Software Directive, decompilation (reverse engineering), exception conditions
- defendants
 acting in similar manner, Brussels I Regulation law 18.06
 multiple, Brussels I Regulation 18.02, 18.03–7, 18.21
 security compensation provisions, IPRED (Article 7) 12.94
- Denmark
 blocking Internet access at request of right holder or law enforcement agencies 15.127
 Brussels I Regulation 15.56
 indirect reproductions 11.08
Newspaper Publishers’ Association v Newsbooster.com ApS 11.08
 rental right as exclusive right 6.14
 resale right transposition 10.20
 satellite broadcasting and extended collective licensing 7.41
- Derclaye, Estelle 9.01–79, 17.18
- Design Directive, term of protection 20.29
- destruction of goods
 with declarant’s or holder’s express agreement, piracy policies 15.75–7
 IPRED, corrective measures (Article 10) 12.158–9, 15.55
 small consignments of allegedly counterfeit or pirated goods 15.74, 15.76–7
see also seizure of goods
- differential pricing and discrimination, essential facilities principle 4.25–6
- Digital Agenda initiative 0.05, 11.94, 17.01–32
 cross-border online access to orphan works 13.03
 cultural heritage digitisation 16.22
 Digital Agenda Communication 17.04, 17.06, 17.07, 17.09, 17.11
 digital libraries and Memorandum of Understanding 13.22
 Europe 2020 strategy 17.01
 Intellectual Property Strategy 0.07
 piracy policies, future directions 15.277, 15.278–9

- Digital Agenda initiative, delays and divisions 17.14–21
- Anti-Counterfeiting Trade Agreement (ACTA) 17.17
- Anti-Counterfeiting Trade Agreement (ACTA), Avaaz online petition against 17.27
- Collective Rights Management (CRM) Directive 17.15–17
- Collective Rights Management (CRM) Directive, and European Licensing Passport 17.16
- copyright enforcement mechanisms 17.17
- cross-border and pan-European licensing 17.15
- EU Copyright Title 17.15
- European Copyright Code 17.15, 17.18–21
- ‘fair use’ provision consideration and increased flexibility 17.21
- harmonisations to copyright law 17.15
- Information Society Directive, exceptions and limitations 17.20–21
- IPRED review 17.17
- legislative initiatives 17.16
- neighbouring rights issues 17.19
- stakeholder dialogues 17.15–16, 17.18
- voluntary charter option 17.19
- Wittem Group draft 17.18, 17.21
- Digital Agenda initiative, digital single market 17.04–13
- and Collective Rights Management Directive 17.07
- Communication on Innovation Union 17.06, 17.10
- Communication on the Single Market for IPRs 17.06
- copyright laws as regulatory barrier 17.06, 17.10
- copyright reforms achieved 17.11–13
- creative industries and GDP 17.09, 17.10
- cross-border online sales, problems with 17.09
- Europe 2020 aim 17.09–10
- geographical boundaries and fragmentation 17.07
- harmonisation agenda 17.05–8, 17.09
- and IPRED review 17.07
- obstacles 17.04, 17.07
- and Orphan Works Directive 17.07, 17.12
- Reuse of Public Sector Information Directive 17.13
- User-Generated Content (UGC) 17.07
- website, VII Pillars 17.11, 17.12, 17.13, 17.14–21
- Digital Agenda initiative, realisation problems 17.22–31
- Creative Content Online initiative and failure to reform CRM 17.23–4
- CRM Recommendation implementation to avoid conflicts with collecting societies and right holders 17.24
- economic problems and austerity measures 17.28–31
- economic problems, retail trade fall 17.31
- enforcement reform 17.27
- European Copyright Code creation 17.26
- political difficulties of copyright reform 17.25–7
- digital environment
- adaptation to new challenges 11.90–92
- digitisation of cultural heritage *see* cultural heritage, digitisation and copyright law
- media literacy in 15.22
- technology protection, piracy policies 15.04
- disclosure orders
- evidence disclosure, IPRED (Article 6) 12.59
- origin and distribution networks of goods or services, IPRED (Article 8) 12.105
- third persons, IPRED (Article 8) 12.108
- dispute resolution
- Collective Rights Management Directive, musical works for online use 14.73–4
- piracy policies 15.11
- WTO Dispute Settlement Panel *see* World Trade Organisation (WTO) Dispute Settlement Panel
- distribution concept, CJEU 20.03, 20.17–21

- distribution rights
- Collective Rights Management Directive
 - see* Collective Rights Management Directive, distribution of amounts due to rightholders (Article 12)
 - Database Directive (Article 5) 9.23, 11.37
 - exhaustion, Rental and Lending Rights Directive (Article 1) 6.21–2
 - information obligations, Information Society Directive (Article 19) 11.138
 - Information Society Directive *see* Information Society Directive, distribution right (Article 4)
 - Information Society Directive (Articles 5 and 6.4) 11.68, 11.95
 - Rental and Lending Rights Directive *see* Rental and Lending Rights Directive, distribution right (Article 9)
 - Software Directive (Article 4) 5.72–89, 11.37, 11.39, 11.43, 11.47
- dominance abuse
- Collective Rights Management Directive, licensing (Article 15) 14.56–7
 - concept and economic power 4.13–15
 - essential facilities principle *see* essential facilities principle, cases relating to copyright and dominance abuse
 - evidence, measures for preserving, IPRED (Article 7) 12.95
 - prevention, Database Directive (Article 1) 9.02
 - Satellite and Cable Directive *see* Satellite and Cable Directive, prevention of abuse of negotiating positions (Article 12)
- double-market structure, essential facilities principle 4.32–3, 4.45, 4.46, 4.48, 4.52
- download-to-own (DTO) software market 11.33
- see also* software
- e-book development
- Rental and Lending Rights Directive (Article 3) 6.48
 - see also* publishers
- E-Commerce Directive (Directive 2000/31) 3.11
- clocking Internet access 15.127
 - codes of conduct (Article 16) 12.208, 15.176
 - confidentiality and national law 12.116
 - freedom of information (Article 15) 15.157
 - intermediaries, injunctions against 12.167–8
 - Internet blocking orders 15.157, 15.172
 - Internet piracy *see* piracy, policies and actions in fight against, Internet piracy, legislative actions, E-Commerce Directive
 - ISP liability issues 11.151–2, 11.156–7, 11.166–7, 12.138, 15.128, 15.276
 - ISP liability issues, limitations 11.158–65, 11.167, 12.168
 - personal data protection (Article 1) 12.125
 - processing of personal data and its free movement 12.17
- E-Privacy Directive (Directive 2002/58)
- data retention 12.116, 12.118, 12.119, 15.151
 - ‘notice-and-take down’ mechanism 15.144
- EC Treaty 0.02, 1.03
- copyright directives, legal basis for issuing (Article 95) 1.09
 - copyright protection period (Articles 30 and 36) 8.04, 8.05
 - copyright understanding (Article 36) 0.02, 1.03, 1.05
 - cultural aspects (Article 151) 1.19
 - exclusivity and freedom of competition 1.05
 - free flow of goods and service (Article 36) 1.05, 6.21, 6.22
 - intellectual property rights definition (Articles 30 and 133) 12.07
 - non-discrimination on grounds of nationality (Article 12) 1.04, 1.11, 6.47
 - term of protection irrespective of home country (Article 7) 8.57
 - territoriality and free movement of goods and services 1.05, 1.24
- ECJ *see* Court of Justice of European Union (CJEU)

- economic effects
- austerity measures, Digital Agenda initiative 17.28–31
 - cultural heritage, digitisation and copyright law, legal challenges 16.102, 16.107, 16.109
 - cultural heritage, digitisation of copyrighted material as special challenge 16.64–71
 - direct or indirect advantage, Rental and Lending Rights Directive (Article 2) 6.31–2
 - piracy policies 15.03
 - retail trade fall, Digital Agenda initiative 17.31
- Economic Partnership Agreements (EPAs), piracy policies 15.236
- eContentPlus programme 16.96
- education sector
- education-related users, Europeana 16.45
 - exceptions, Copyright Directive (Article 5) 21.59, 21.60
 - information and expression as guiding objectives, Information Society Directive 11.95–7
 - limitations and exceptions for the benefit of educational activities 19.34, 19.37
 - Massive Open Online Courses (MOOCs) 21.59
 - non-commercial education exceptions, EU Copyright Law, working towards 21.59–60
 - teaching and research exceptions, Database Directive (Article 6) 9.63
 - see also* libraries
- electronic data interchange systems, and piracy *see* piracy, policies and actions in fight against, risk-analysis tools and electronic data interchange systems
- electronic print sector, Orphan Works Directive (Article 1) 13.11–12
- Electronic Signatures Directive (Directive 99/93), processing of personal data and its free movement 12.17
- employees, computer programs created by *see under* Software Directive, authorship of computer programs (Article 2)
- end-users
- initiatives and technical cooperation, piracy policies 15.246
 - IPRED (Article 2) 12.10
 - see also* users
- enforcement
- convergence, evolution of copyright law 1.17
 - intellectual property rights, piracy policies 15.15, 15.16
 - reform, Digital Agenda initiative 17.27
- Enforcement of Intellectual Property Rights Directive (IPRED) (2004/48) 1.09, 1.17, 12.01–218, 15.15, 15.16
- authorship presumption (Article 5) 5.42
- codes of conduct (Article 17) 12.208–10, 15.176, 15.177
- counterfeiting and piracy problem 12.02, 12.05
- damages actions or injunctions 11.148
- Digital Agenda initiative, digital single market 17.07, 17.17
- digital infringements, lack of detail on 15.49
- entry into force (Article 21) 12.218
- exchange of information and correspondents (Article 19) 12.215
- external borders with third countries 12.03–4
- harmonisation of copyright remedies 5.129, 15.18
- historical background 12.01, 12.05
- implementation (Article 20) 12.216–17
- information disclosure (Article 8) 15.43, 15.50, 15.51, 15.148, 15.151
- ISP liability (Article 8) 11.157, 11.169, 15.128
- piracy policies 12.02, 12.05, 12.68, 15.35–55, 15.81–4, 15.87, 15.145, 15.214–17, 15.275
- policy reasons and timing 12.02–4
- procedural steps 12.05
- remedies to infringement of all intellectual property rights (Article 2) 9.70
- right holder's consent, burden of proof 11.57
- sanctions by member states 12.205–7

- sanctions and remedies (Article 2) 11.144, 11.145, 11.146
- seizure provisions (Articles 7 and 9) 5.138
- subject matter (Article 1) 12.06–8
- subject matter (Article 1), intellectual property rights 12.07–8
- subject matter (Article 1), measures, procedures and remedies 12.06
- sui generis* right 11.110, 15.36
- Enforcement of Intellectual Property Rights Directive (IPRED) (2004/48), alternative measures (Article 12) 12.170–78
- infringer's fault, dependence on 12.173
- merits of case, dependency on 12.178
- only applicable to intellectual property infringements 12.176
- pecuniary compensation 12.171–2, 12.175, 12.176
- proportionality test on impact of the corrective measures on infringer 12.174
- Enforcement of Intellectual Property Rights Directive (IPRED) (2004/48), assessment reports (Article 18) 12.211–14, 15.48
- and Anti-Counterfeiting Trade Agreement (ACTA) 12.213–14
- updating 12.213
- Enforcement of Intellectual Property Rights Directive (IPRED) (2004/48), corrective measures (Article 10) 12.152–60
- court discretion on appropriate cases 12.154–5, 12.157
- destruction, reuse or modification decisions 12.158–9, 15.55
- examples 12.156
- materials and implements principally used in creation of goods, inclusion of 12.157
- obligatory nature 12.153
- proportionality principle 12.155
- recall of goods from channels of commerce 12.158, 15.45, 15.55
- third party measures 12.155
- Enforcement of Intellectual Property Rights Directive (IPRED) (2004/48), damages (Article 13) 12.179–91, 15.46
- assessment problems 15.53, 15.54
- compensation for the costs of proceedings 15.54
- lack of deterrence in damage awards 15.50
- lost profits 12.183, 12.184, 12.185
- lump sum payments 12.186–8, 15.50
- non-culpable infringement 12.191
- obligatory nature, qualification of 12.180
- as pecuniary damages 12.182, 12.187–8
- royalty fee payments 12.186, 12.187–8
- scope 12.183
- slight and gross negligence, lack of distinction between 12.181
- Enforcement of Intellectual Property Rights Directive (IPRED) (2004/48), evidence (Article 6) 12.51–81
- banking, financial or commercial documents disclosure 12.70–78
- banking, financial or commercial documents disclosure, judicial authority order 12.77–8
- banking, financial or commercial documents disclosure, as procedural measure 12.76
- confidentiality protection 12.62, 12.81
- disclosure orders 12.59
- evidence in control of opposing party (alleged infringer) 12.57, 15.41
- filtering system 12.62
- in camera* proceedings 12.62
- infringement committed on a commercial scale 12.72–3, 15.41
- nature of proceedings in context of which application is filed 12.54–5
- 'party' and 'opposing party' terms 12.53, 12.79
- piracy and counterfeiting 12.68
- preliminary or precautionary measures/proceedings 12.54
- procedural measures, advantages of 12.55
- reasonably available evidence sufficient to support claims 12.58–60, 12.80
- sampling and expeditious destruction 12.67–8

- sampling and interlocutory injunctions (Article 9) 12.66, 12.85
- sampling of work as evidence 12.63–9
- sanctions 12.61
- software source code disclosure (Germany) 12.56
- specified evidence 12.56
- ‘TRIPs plus’ standards 12.61, 12.70–78, 15.38
- Enforcement of Intellectual Property Rights
 - Directive (IPRED) (2004/48), evidence, measures for preserving (Article 7) 12.82–98
 - alleged infringement cases 12.84–6
 - Anton Piller Orders 12.82
 - confidentiality of information 12.88–9
 - cross-border cases and Regulation 1206/2001 12.97
 - damages claims 12.96
 - defendants’ security compensation provisions 12.94
 - detailed description, with or without the taking of samples 12.87
 - fishing for evidence 12.90
 - goods rather than persons focus 12.88
 - inaudita altera parte* (without the other party having been heard) 12.86, 12.91, 15.42
 - interlocutory injunctions 12.85
 - physical seizure of infringing goods 12.87
 - proportionality test 12.87
 - provisional measures 12.83, 15.42
 - sanctions 12.92–3
 - specified evidence 12.90
 - ‘sufficient degree of certainty’ as regards infringement 12.85
 - time factors for institution of proceedings, and abuse prevention 12.95
 - witness identity protection 12.98
- Enforcement of Intellectual Property Rights
 - Directive (IPRED) (2004/48), general obligation (Article 3) 12.22–6
 - effective, proportionate and dissuasive measures 12.25, 12.61, 12.62, 15.39, 15.156
 - enforcement measures, procedures and remedies 12.23, 12.25–6, 15.39, 15.147
 - freedom of expression and protection of personal data 12.24
 - third party interests and pecuniary compensation 12.24
- Enforcement of Intellectual Property Rights
 - Directive (IPRED) (2004/48), injunctions, permanent (Article 11) 12.161–9, 15.44
 - enforcement 12.165–6
 - intermediaries, injunctions against 12.167–9, 15.52, 15.140
 - ISP role 15.52
 - national law provisions 12.163, 12.164, 12.167, 15.36
 - as preventive injunctions 12.162
 - proportionality principle and ‘appropriateness’ 12.165, 15.44
 - recurring penalty payments 12.166
 - scope 12.164, 12.169
 - TRIPs Plus element 12.161
- Enforcement of Intellectual Property Rights
 - Directive (IPRED) (2004/48), legal costs (Article 14) 12.192–7, 15.47
 - additional fees and expenses 12.193–4
 - equity as mandatory limitation 12.197
 - losing party bearing legal costs, conditionality 12.196
 - proportionality principle 12.195
- Enforcement of Intellectual Property Rights
 - Directive (IPRED) (2004/48), persons entitled to apply for application of measures, procedures and remedies (Article 4) 12.27–41
 - ‘all other persons authorised to use those rights’ 12.34–6
 - authorised third parties and applicable law 12.35
 - collective rights management bodies and professional defence bodies, rights enforcement 12.37–40
 - holders of intellectual property rights 12.31–3

- related rights 12.31–2
- suing for copyright infringement 12.30, 12.32, 12.35, 12.39
- Enforcement of Intellectual Property Rights Directive (IPRED) (2004/48), presumption of authorship or ownership (Article 5) 12.42–50
- ‘author’ definition 12.43
- author’s name ‘on the work in the usual manner’ 12.47–8, 15.40
- copyright works covered 12.43, 12.45
- holders of rights related to copyright 12.49–50
- national laws on presumption of authorship and ownership 12.48
- Enforcement of Intellectual Property Rights Directive (IPRED) (2004/48), provisional and precautionary methods to stop infringements (Article 9) 12.126–51
- compensation security or equivalent assurance 12.134–5, 12.148
- deterrent fines 12.129
- evidence requirements on rightholder and infringement 12.130
- ex parte* proceedings 12.132–3
- infringer’s financial state, consideration of 12.146, 12.150–51
- interlocutory injunction against an intermediary 12.137–8, 12.167, 15.44
- intermediaries, provisional measures against 12.137–9
- intermediaries, understanding of term 15.52
- Internet service providers (ISPs) 12.52, 12.138
- ordering precondition 12.128
- penalties, recurring 12.129
- proceedings on the merits, time periods 12.136
- seizure of assets to secure financial claims 12.143–51
- seizure of assets to secure financial claims, financial information access 12.150–51
- seizure of assets to secure financial claims movable and immovable property 12.149
- seizure of goods 12.140–42
- seizure of goods, goods within ‘channels of commerce’ 12.142
- seizure of goods, *inaudita altera parte* (without the other party having been heard) 12.140
- TRIPs Plus elements 12.143–51
- Enforcement of Intellectual Property Rights Directive (IPRED) (2004/48), publication of judicial decisions (Article 15) 12.198–204
- information dissemination 12.201–3
- national law provisions 12.198
- non-culpable infringement 12.199
- scope 12.204
- as TRIPs-plus element 12.200
- Enforcement of Intellectual Property Rights Directive (IPRED) (2004/48), right of information (Article 8) 12.99–125
- banking, financial or commercial documents 12.107
- cases ‘acting on a commercial scale’ 12.108–9
- confidentiality and personal data 12.116, 12.122
- copyright protection and privacy, conflict between 12.125
- damages claims 12.110
- data retention 12.119
- disclosure requirement, origin and distribution networks of goods or services 12.105
- fundamental rights 12.121
- information request directed at particular person 12.102–3
- infringer, notion of 12.104–5
- Internet service providers (ISPs) services 12.108, 12.117, 12.121
- mandatory nature 12.101
- national law provisions 12.111–16, 12.123

- persons involved in production,
 - manufacture or distribution of goods or services 12.109–10
- proportionality 12.124
- self-incrimination prohibition 12.115
- ‘serious crimes’ definition 12.120
- statutory provisions, application of more favourable 12.111–12
- third persons (any other person) disclosure requirements 12.108
- TRIPs Plus provision 12.99
- Enforcement of Intellectual Property Rights
 - Directive (IPRED) (2004/48), scope (Article 2) 12.09–21
 - ‘any infringement’ 12.09–13
 - ‘commercial scale’ definition 12.09–10, 12.13, 12.72
 - criminal sanctions 12.19
 - end-consumers 12.10
 - general reservation term with regard to other EU and international obligations 12.15–19
 - individuals or legal entities, inclusion of 12.12
 - intermediaries 12.20–21, 12.138
 - obligatory measures 12.13
 - personal data processing and its free movement 12.17
 - sanctions and remedies 12.19, 12.20–21
 - technical protection measures 12.16
- ephemeral recordings of works 11.11, 20.33, 20.43
- essential facilities principle 4.01–74
 - access conditions 4.67
 - compulsory licensing and anti-competitive practices (TRIPs Agreement) 4.72
 - consumer demand for a
 - downstream/facilitated product 4.64
 - dominance abuse 4.02, 4.03–4
 - double-market structure 4.32–3, 4.45, 4.46, 4.48, 4.52
 - ‘indispensable input’ in copyright cases 4.63–6
 - ‘indispensable input’ in copyright cases, fan fiction 4.20, 4.64–6
 - interim measures 4.68
 - licence refusal and dominance abuse 4.04
 - licensing practices (TRIPs Agreement) 4.69–71
 - ‘new product’ for which access or licence is required 4.20, 4.59
 - refusal to supply as dominance abuse 4.22
 - standard setting on ‘Fair, Reasonable And Non-Discriminatory’ (FRAND) terms 4.28
 - three-step test for copyright limitations and exceptions (TRIPs Agreement) 4.73
 - and TRIPs Agreement 4.69–74
- essential facilities principle, cases relating to
 - copyright and dominance abuse 4.42–62
 - competition elimination (*IMS*) 4.54
 - competition elimination (*Microsoft*) 4.61
 - double-market structure (*IMS*) 4.52
 - exceptional circumstances (*Magill*) 4.45
 - imitation, substitution, or extension suggestions (*Magill*) 4.46
 - IMS* 4.33, 4.50–54, 4.58, 4.63, 4.68
 - Magill* 4.31, 4.33, 4.35, 4.43–8, 4.49, 4.51, 4.52, 4.54, 4.58
 - Microsoft* 4.27, 4.33, 4.40, 4.55–62, 4.63, 4.64, 4.73–4
 - ‘new product’ requirement (*IMS*) 4.53
 - ‘new product’ requirement (*Microsoft*) 4.58
 - refusal to supply the information and code (*Microsoft*) 4.56–7
 - Tiercé Ladbroke* 4.49, 4.64
- essential facilities principle, TFEU Article 102
 - access conditions 4.67
 - competition by extension 4.20, 4.62, 4.67
 - competition by imitation 4.17–18
 - competition by substitution 4.17–18, 4.62
 - competition and efficiency 4.16
 - competition law 4.01–3
 - copyright exceptions and transformative fair use 4.19
 - deconstructing 4.05–15
 - dominant copyright holder as
 - ‘undertaking’ (engaged in economic activity) 4.06–7
 - dominant position concept and economic power 4.13–15

- dominant position concept and market share 4.14
- effect on interstate trade 4.05
- moral rights 4.41
- objective justification defence 4.38–41
- relevant market dimensions 4.08–12
- essential facilities principle, TFEU Article 102, dominance abuse 4.21–37
- differential pricing and discrimination 4.25–6
- exclusionary 4.21, 4.24, 4.27
- exploitative 4–27, 4.23
- limiting production, markets or technical development 4.28
- non-IP cases requesting access to essential facility 4.31
- predatory pricing 4.24
- refusal to supply 4.29–37
- refusal to supply, ‘constructive’ refusal to supply reasons 4.37
- refusal to supply and indispensability claims 4.35
- technical standard-setting 4.28
- tying and bundling 4.27
- unfair pricing 4.23–4
- varieties of 4.21–9
- Estonia, damage awards calculations 15.50
- EU Copyright Code and Regulation, argument for 21.05, 21.22–9
- Digital Agenda initiative 17.15, 17.18–21, 17.26
- Information Society Directive 11.94
- EU Copyright Law, working towards 21.01–69
- CJEU case law, harmonising impact 21.01–2, 21.07
- copyright exceptions, clarification 21.07–8
- Digital Agenda initiative, delays and divisions 17.15
- levies and private copying (and reprography) exceptions 21.08
- EU Copyright Law, working towards, copyright contract rules, need for 21.06, 21.30–48
- cable retransmission right in Scandinavian countries 21.43
- collective licensing and free movement of goods and services and cross-border licences 21.47–8
- collective licensing in Scandinavian countries 21.40–44
- communication to the public right 21.46
- contract law variations 21.34
- ‘Licences for Europe’ dialogue, limitations of 21.32–3
- licensing agreements in Continental Europe 21.37
- licensing practices, convergence in 21.34
- licensing rules, objectives of 21.34
- moral rights in Continental Europe 21.35
- new online business models 21.45, 21.46
- orphan works and extended collective licensing (ECL) in Scandinavian countries 21.40–44
- overview 21.34
- Pan-European licensing in certain sectors, facilitation of 21.46–8
- property transfer in Continental Europe 21.36
- protective rules in Continental Europe 21.35–40
- reproduction right 21.46
- specific and well-informed 21.38
- territoriality issues 21.30, 21.44
- EU Copyright Law, working towards, EU-wide Copyright Code and Regulation, argument for 21.05, 21.22–9
- borderless internet and EU borders, conflict between 21.23
- CJEU input 21.25–7
- harmonisation of copyright and related rights 21.24–7
- optional unitary copyright title and court consideration 21.28–9
- optional unitary copyright title and court consideration, EU and national titles, distinction between 21.29
- EU Copyright Law, working towards, exceptions’ flexibility and harmonisation of private copying levies 21.49–69
- copyright levies 21.64–9

- copyright levies, and CJEU case law 21.67
- copyright levies, discrepancies between 21.65
- copyright levies, industry criticisms 21.64
- de minimis* principle 21.53
- fair use clause 11.98, 21.51–2, 21.54, 21.56
- flexibility clause dispute resolution and Copyright Tribunal 21.58
- image-based search technology 21.51–6
- non-commercial education exceptions 21.59–60
- non-commercial education exceptions, Massive Open Online Courses (MOOCs) 21.59
- non-commercial education exceptions, reproduction and communication to the public rights 21.59
- private copying exception 21.62–3
- technology-enabled uses 21.50–58, 21.59
- three-step test as flexibility clause 21.56
- thumbnail images 21.53–6
- EU Copyright Law, working towards, territoriality issues 21.04, 21.09–21
- absolute territorial exclusivity (ATE) 21.19
- CJEU input 21.15–19
- ‘country of origin’ rule, lack of 21.13
- ex post* versus *ex ante* approach 21.21
- football matches, filming and broadcasting 21.15–19
- licensing facilitation 21.12, 21.13, 21.14
- multi-territorial and multi-repertoire licensing by collecting societies, online rights in musical works 21.14
- national restrictions 21.10
- regulation by competition and freedom of goods and services rules 21.21
- remuneration restrictions 21.11
- Technology Transfer Block Exemption Regulation (TTBER), online licensing regulation 21.21
- EU Telecom Package, suspension or limitation of access 11.154
- EU-Canada Comprehensive Economic and Trade Agreement (CETA) 15.240
- Euojust, piracy policies 15.117
- Europe 2020 Strategy 0.04–5, 0.07, 16.22, 16.84, 17.01, 17.09–10
- piracy policies 15.86, 15.277
- European Anti-Fraud Office (OLAF) 15.113, 15.117, 15.118, 15.119
- European Copyright Society, hypertext links 11.29
- European Court of Human Rights (ECtHR)
- Ashby Donald v France* 11.81–3, 15.173–4
- K U v Finland* 15.167
- and piracy *see* piracy, policies and actions in fight against, Internet piracy, legislative actions, compatibility of injunctions and blocking orders and fundamental rights, Council of Europe and the ECtHR
- Pravoye Delo Editorial Team and Shtekel v Ukraine* 15.169
- quotation of undisclosed works and freedom of expression 11.96
- Times Newspapers v United Kingdom* 15.168
- European Court of Justice (ECJ) *see* Court of Justice of European Union (CJEU)
- European Cybercrime Centre (EC3) 15.115
- European Data Protection Supervisor (EDPS), Internet piracy 15.136, 15.146, 15.175
- European Digital Libraries Initiative 16.24
- European External Action Service (EEAS) 19.05
- European Free Trade Association (EFTA)
- L’Oréal* 11.61
- piracy and enforcement of intellectual property rights 15.188–9
- European Licensing Passport 17.16
- European Observatory, piracy policies *see* piracy, policies and actions in fight against, European Observatory on infringements of intellectual property rights
- European Search Warrant limitations, piracy policies 15.87
- Europeana *see* cultural heritage, digitisation and copyright law, initiatives, Europeana
- Europol, piracy policies 15.111–16, 15.259

- evidence
- protection, IPRED *see* Enforcement of Intellectual Property Rights Directive (IPRED), evidence (Article 6)
 - provisional measures for preserving, IPRED (Article 7) 15.42
 - provisional and precautionary methods to stop infringements, IPRED (Article 9) 12.130
- evolution of copyright law 1.02–18
- acquis communautaire* assessment 1.14–18
 - 'author as creator' rule 1.15
 - common features 1.19
 - copyright contract disparities 1.18
 - Copyright and Primary EC Law, relationship between 1.03–6
 - ECJ role (since 2004) 1.11–13
 - enforcement convergence 1.17
 - harmonisation within EC (1987–2004) 1.07–10
 - moral rights 1.16
 - national legislature effects 1.10
 - non-economic interests of creative people 1.22
 - originality concept 1.15
 - Single European Act 1.07
 - technical development 1.21
 - three-steps test 1.14
- exceptions
- CJEU role in EU Copyright law
 - development *see* Court of Justice of European Union (CJEU), role in EU Copyright law development, exceptions and limitations
 - decompilation (reverse engineering), Software Directive *see* Software Directive, decompilation (reverse engineering), exception conditions
 - flexibility, EU Copyright Law, working towards *see* EU Copyright Law, working towards, exceptions' flexibility and harmonisation of private copying levies
 - Information Society Directive *see* Information Society Directive, exceptions and limitations (Articles 5 and 6.4)
 - limitations and exceptions for the benefit of educational activities 19.34, 19.37
 - limitations and exceptions for libraries and archives 19.41, 19.45, 19.46
 - mandatory exception, cable retransmission right by broadcasting organizations 7.74–5
 - reproduction rights, cultural heritage 16.67
 - restricted acts, Database Directive *see* Database Directive, restricted acts, exceptions (Article 6)
 - restricted acts, Information Society Directive (Article 5) 9.28–9, 9.63, 16.68, 16.70
 - sui generis* rights, Database Directive *see* Database Directive, *sui generis* rights, exceptions (Article 9)
 - three-step test, Copyright Directive (Article 5) 20.32, 21.53
- exclusions
- Collective Rights Management Directive (Article 1) 14.12
 - Database Directive (Article 1) 9.03
 - essential facilities principle, dominance abuse 4.21, 4.24, 4.27
 - on-demand services, Technical Protection Measures (TPMs) 11.102
 - specific groups, Collective Rights Management Directive (Article 20) 14.63
- exclusive jurisdiction rule, Brussels I Regulation *see* intellectual property and EU rules on private international law, Brussels I Regulation, Article 24(4) (exclusive jurisdiction rule)
- exclusive rights
- CJEU, role in EU Copyright law
 - development *see* Court of Justice of European Union (CJEU), role in EU Copyright law development, exclusive rights
 - freedom of competition, EC Treaty 1.05
 - Rental and Lending Rights Directive (Article 1) 6.10–17
 - Software Directive (Article 4) 5.56–7
 - transferability, Rental and Lending Rights Directive (Article 3) 6.50, 6.78

- exhaustion of rights
 Community exhaustion rule *see*
 Community exhaustion rule
 Database Directive, restricted acts (Article 5) 9.25
 free movement of goods principle 3.01–4
 Information Society Directive, distribution rights (Article 4) 11.48–61
 Information Society Directive, right of communication to the public (Article 3) 11.32–5
 international exhaustion, free movement of goods principle 3.15–17
 international exhaustion, Information Society Directive (Article 4) 11.61
 re-utilisation rights, exhaustion principle, Database Directive (Article 7) 9.46
 Rental and Lending Rights Directive (Article 1), distribution rights 6.21–2
 right holder consent and exhaustion of rights, Information Society Directive (Article 4) 11.53–7
 ‘sale or transfer of ownership’ and exhaustion of rights, Information Society Directive (Article 4) 11.50
 extraction rights, Database Directive (Article 8) 9.43–4, 9.58, 9.59
- fair compensation
 CJEU role in EU Copyright law development, exceptions and limitations 20.45–8
 Copyright Directive (Article 5) 21.65
 Information Society Directive *see*
 Information Society Directive, exceptions and limitations (Articles 5 and 6.4), fair compensation, remuneration and collective management link
 Orphan Works Directive (Article 6) 11.106, 16.86
see also compensation
- fair use clause
 Digital Agenda initiative 17.21
 essential facilities principle 4.19
 EU Copyright Law, working towards 11.98, 21.51–2, 21.54, 21.56
 Information Society Directive 11.98
 fan fiction 4.20, 4.64–6
 Farrand, Benjamin 17.01–32
 films *see* cinematographic and audiovisual works
 financial information access 12.150–51
 banking documents disclosure 12.70–78, 12.107
 Finland, Internet access blocking 15.127
 ‘first sale’ reference, Software Directive (Article 4) 5.80–89
 Firth, Alison 4.01–74
 fixation right
 Rental and Lending Rights Directive *see*
 Rental and Lending Rights Directive, fixation right (Article 7)
 Term Directive (Article 3) 8.33
 folklore and cultural expression *see*
 international stance, copyright exceptions and limitations, folklore and traditional cultural expressions, protection proposals
 football matches, filming and broadcasting 21.15–19
see also sport
 Frabboni, Maria Mercedes 13.01–62
 France
 art and antiques market share 10.92
 collective rights management 10.56
 collective work category 1.15
 data creation and collection 9.38
droit de suite (resale right) 10.01–3, 10.56
droit de suite (resale right), post mortem restrictions 10.46–8
 duration of authors’ rights 8.01
 ‘graduated response’ to Internet blocking 15.127
Hadopi Law 15.127
Havas Numerique SNC and Cadres On Line S.A. v Keljob 11.08
 indirect reproductions 11.08
Lectiel 9.38
 moral rights 1.16
Précom 9.38, 9.74
 rental right as exclusive right 6.15
 resale right transposition 10.20
saisie contrafaçon (search orders) 12.82

- sui generis* right 9.38, 9.74
 transfer of property and assignment of
 copyright 21.36
- FRAND (Fair, Reasonable And
 Non-Discriminatory) terms, essential
 facilities principle 4.28
- free movement of goods principle 3.01–17
 Community exhaustion of rights principle
 3.04–5, 3.06–9, 3.11
 consent of IPR owner and placement on
 market 3.06–14
- EU Copyright Law, working towards
 21.21
- exhaustion of intellectual property rights,
 justification 3.03–4
- exhaustion of intellectual property rights,
 precluding IPRs from being used to
 partition EU territory into national
 markets 3.04
- exhaustion of intellectual property rights,
 and resale rights 3.01–2
- international exhaustion 3.15–17
- online distribution of copyright works in
 non-material form 3.11
- online and offline distribution of goods,
 criticism of distinction between
 3.12–14
- performance of services and
 non-applicability of principle of
 Community exhaustion of rights
 3.08–9
- regional exhaustion of rights 3.02
- freedom of choice
 Collective Rights Management Directive
 (Article 5) 14.31, 14.35, 14.36
 Rome I Regulation *see* intellectual
 property and EU rules on private
 international law, legal choices, Rome
 I Regulation, freedom of the parties
 to choose the applicable law (Article
 3)
- freedom of expression
 Information Society Directive 11.69,
 11.81–3
 personal data protection, IPRED (Article
 3) 12.24
- privacy protection and the freedom of
 expression, piracy policies 15.142–3
- freedom of information
 E-Commerce Directive (Article 15)
 15.157
see also information
- fundamental rights
 Charter *see* Charter of Fundamental
 Rights
 and Internet piracy *see* piracy, policies and
 actions in fight against, Internet
 piracy, legislative actions,
 compatibility of injunctions and
 blocking orders and fundamental
 rights
 IPRED (Article 8) 12.121
- G8 (Group of Eight), and piracy *see under*
 piracy, policies and actions in fight
 against, third countries, non-legislative
 actions
- G20 (Group of Twenty) participation, piracy
 policies 15.263–4
- Gaster, Jens 9.71, 9.75, 10.01–98
- Geiger, Christophe 11.62–106
- Geneva Phonogram Convention 8.26, 8.34
 IPRs and piracy 15.09
- Germany
 art and antiques market share 10.92
 collective rights and obligation to contract
 with users 14.59
 computer program originality assessment
 5.33
 Copyright Act, alternative measures
 12.170
 Copyright Act and La Bohème
 performance 2.16
 copyright contract rules 21.36
 creativity level assessment 1.15
 cross-border transactions 20.18–19
 data creation and collection, distinction
 between 9.39
 databases eligible for *sui generis* right 9.34,
 9.45, 9.46, 9.54, 9.77
 doctrine of implied licence 11.90
 duration of authors' rights 8.01
 Heise 11.128

- Hit Bilanz* 9.03, 9.77
 'independent material' definition 9.03
 indirect reproductions 11.08
 ISP liability 11.155
Joseph Beuys 10.13, 10.14
 moral rights 1.16
Paperboy 11.08
 rental right to remuneration 6.59–60
 rental right to remuneration, time and
 place control to exploit products 6.60
 resale right transposition 10.20
 software source code disclosure 12.56
 technological measures protection 11.128
Thumbnail I 21.53, 21.55
Thumbnail II 21.56
Titus Donner 20.18–19
Vorschaubilder 11.90
- grandfather clause, Information Society
 Directive 11.65, 11.89
- graphic user interface (GUI)
 communication to the public, CJEU role
 in EU Copyright law development
 20.26
- Information Society Directive, right of
 communication to the public (Article
 3) 11.23
- lack of protection, Software Directive
 (Article 1) 5.24–6
- Greece
 collecting societies 12.39
 collective rights and obligation to contract
 with users 14.59
 counterfeit and pirated goods 15.04
 duration of authors' rights 8.01
 lump sum punitive damages payments
 12.189
 rental right as exclusive right 6.15
- Griffiths, Jonathan 17.21, 20.01–52
- Guibault, Lucie 14.01–84, 17.20
- Hague Convention, *Choice of Court
 Agreements* 18.27
- harm levels
 and fair balance test, Information Society
 Directive 11.104
 fair compensation, and harm suffered by
 author 20.45, 20.47
- harmonisation
 acquis communautaire assessment 1.14–18
 collective management, lack of 1.17
 common features 1.19
 common law based systems, reconciling
 with civil law 1.20
 copyright contract disparities 1.18
 copyright remedies, IPRED 5.129, 15.18
 Digital Agenda initiative, digital single
 market 17.05–8, 17.09
 enforcement convergence 1.17
 EU-wide Copyright Code and
 Regulation, argument for 21.24–7
 Information Society Directive 11.16,
 11.37, 11.74–86, 14.02
 legitimacy crisis 1.22
 need for full 0.09
 piracy policies 15.14–15, 15.18
 Rental and Lending Rights Directive *see*
 Rental and Lending Rights Directive,
 object of harmonisation (Article 1)
 Resale Right Directive 10.08–9, 10.11–12,
 10.31
 Satellite and Cable Directive 7.03, 7.05,
 7.52
 Software Directive 5.02–3
 Term Directive 8.01–3, 8.06–7, 8.16, 8.19
 three-steps test 1.14
 within EC (1987–2004) 1.07–10
- heritage *see* cultural heritage
- Hong Kong, counterfeit and pirated goods
 15.04
- hosting, Internet service providers (ISPs)
 liability 11.162, 11.163, 11.164
- hotels rooms, Rental and Lending Rights
 Directive (Article 8) 6.87–8, 6.93
- Hungary, ISP liability 11.155
- hypertext links and cloud services,
 Information Society Directive (Article
 3) 11.28–9
- i2010 European Libraries Initiative 16.23–4
- image-based search technology, EU
 Copyright Law, working towards
 21.51–6
- indispensability test, Collective Rights
 Management Directive 14.27

- information
- access and freedom of expression,
 - Information Society Directive 11.96, 11.105
 - choices, Collective Rights Management Directive (Article 5) 14.34
 - confidentiality, IPRED (Article 7) 12.88–9
 - disclosure, Anti-Counterfeiting Trade Agreement (ACTA) 15.229
 - disclosure, IPRED (Article 8) 15.43, 15.50, 15.51, 15.148, 15.151
 - dissemination, IPRED (Article 15) 12.201–3
 - exchange, Collective Rights Management Directive *see* Collective Rights Management Directive, information exchange between competent authorities (Article 39A)
 - exchange, IPRED 12.215
 - financial information access, IPRED (Article 9) 12.150–51
 - freedom of information, E-Commerce Directive (Article 15) 15.157
 - monitoring of transmitted, E-Commerce Directive 15.130, 15.147
 - obligations, Collective Rights Management Directive 14.63, 14.70
 - presentation and verification, Database Directive (Article 7) 9.40, 9.41
 - protection of undisclosed, Anti-Counterfeiting Trade Agreement (ACTA) 15.215
 - refusal to supply, essential facilities principle 4.56–7
 - right of, IPRED *see* Enforcement of Intellectual Property Rights Directive (IPRED), right of information (Article 8)
 - right to obtain, Resale Right Directive (Article 9) 10.85–6
 - rights management obligations, Information Society Directive *see* Information Society Directive, rights management obligations (Article 19)
 - sharing, Collective Rights Management Directive 14.61–2
- Information Society Directive (Directive 2001/29) 1.09, 1.14, 6.08, 11.01–185
- application over time (Article 10) 11.173–4
 - broadcasting right in country of origin 7.35
 - CJEU role in EU Copyright law development *see* Court of Justice of European Union (CJEU), role in EU Copyright law development, exceptions and limitations, optional exceptions under Information Society Directive
 - commentary 11.01
 - communication to the public rights (Article 5) 7.38, 9.24
 - continued application of other legal provisions (Article 9) 11.171–2
 - counterfeiting and piracy problems 12.02
 - entry into force (Article 14) 11.184
 - ephemeral recordings of works 20.33
 - establishments accessible to the public 6.33
 - final provisions (Article 12) 11.179–82
 - final provisions (Article 12), contact committee 11.181–2
 - final provisions (Article 12), related rights protection 11.180
 - implementation (Article 13) 11.183
 - piracy policies 15.31–4
 - related rights duration 8.29
 - relationships 11.03
 - rental right and lending right 6.08, 6.22, 6.27
 - reproduction right (Article 11) 6.74, 9.21, 16.67
 - restricted acts, exceptions (Article 5) 9.28–9, 9.63, 16.68, 16.70
 - scope (Article 1) 11.02–3
 - scope (Article 1), relationship with other Directives 11.02
 - technical adaptations (Article 11) 11.175–8
 - three-step test 9.59
- Information Society Directive (Directive 2001/29), distribution right (Article 4) 11.36–61

- 'authors' term 11.39–40
- 'by sale or otherwise' 11.47
- copy producer and right holder consent 11.46
- exhaustion in relation to goods rather than services 11.51, 11.51–2
- exhaustion of rights 11.48–61
- harmonisation 11.37
- international exhaustion of rights 11.61
- national law implementation 11.41
- 'original of their works or of copies thereof', 'copy', understanding of 11.42–3
- 'original of their works or of copies thereof', tangible and intangible forms 11.41–7
- right holder consent and exhaustion of rights 11.53–7
- right holder consent and exhaustion of rights, burden of proof 11.57
- right holder consent and exhaustion of rights, constraints on consent 11.58–60
- 'sale or transfer of ownership' and exhaustion of rights 11.50
- transfer of ownership decision 11.44
- Information Society Directive (Directive 2001/29), exceptions and limitations (Articles 5 and 6.4) 11.62–106
- Charter of Fundamental Rights of the European Union 11.79–80, 11.85
- communication to the public 11.79
- copyright law and freedom of expression 11.81–3
- differences between 11.64
- Digital Agenda initiative, delays and divisions 17.20–21
- distribution right 11.68
- exhaustive list of limitations 11.64–5, 11.89
- flexible interpretation of limitations 11.72–3
- freedom of expression or fundamental rights 11.69
- grandfather clause 11.65, 11.89
- harmonisation, degree of 11.74–6
- harmonisation, increased convergence among the different systems 11.74–5
- harmonisation, scope of exclusive rights 11.75
- limit of Member States' discretion and three-step test 11.70–73
- limitations as stimulus to creativity 11.63
- mandatory exception 11.66
- mandatory limitation for transient copies 11.76
- open or closed list of limitations 11.65
- optional exceptions or limitations 11.67–9, 11.74
- predominantly optional limitations 11.66–9
- reproduction rights 11.67
- right to communicate to the public 11.67
- technical processes involved in viewing copyright material on Internet 11.76
- technological development assurance 11.84
- three-step test 11.70–73, 11.89
- transient or incidental copies limitation 11.66, 11.76
- Information Society Directive (Directive 2001/29), exceptions and limitations (Articles 5 and 6.4), case law role 11.77–92
- autonomous concepts 11.86
- digital environment, adaptation to new challenges 11.90–92
- diversity of legal traditions, respect of 11.88–9
- doctrine of implied licence 11.90–91
- harmonising effect of the Directive's recitals 11.78
- 'mitigated' principle of narrow interpretation 11.79–85
- national case law flexibility 11.87–92
- national courts' review authority 11.85
- remuneration claims 11.92
- reproduction right, Member states allowed to 'provide similarly' for exceptions 11.89
- transparency enhancement through harmonious interpretation 11.77–86, 14.02

- Information Society Directive (Directive 2001/29), exceptions and limitations (Articles 5 and 6.4), fair compensation, remuneration and collective management link 11.104–6, 20.45, 20.46, 20.48
- creativity enhancement 11.104
- harm levels and fair balance test 11.104
- horizontal harmonisation of practical solutions 11.106
- information access and privacy rights 11.105
- private copying exception 11.105
- right to property 11.104
- three-step test 11.104
- Information Society Directive (Directive 2001/29), exceptions and limitations (Articles 5 and 6.4), revisions to Article 5, possible 11.93–103
- education, information and expression as guiding objectives 11.95–7
- European Copyright Code suggestion 11.94
- flexible fair use clause 11.98
- future developments, transparent framework requirement 11.95–8
- information access and freedom of expression 11.96
- libraries, teaching and scientific research 11.95
- Licences for Europe initiative 11.94
- mandatory limitations and copyright contracts 11.97
- new uses, unknown, legal framework to accommodate 11.98
- quotation of undisclosed works and freedom of expression 11.96
- remuneration and right of distribution 11.95
- willingness to reform the EU system 11.93–4
- Wittem group's draft of European Copyright Code as example 11.95, 11.103, 11.106
- Information Society Directive (Directive 2001/29), exceptions and limitations (Articles 5 and 6.4), Technical Protection Measures (TPMs) 11.99–103, 11.129, 20.33
- contractual agreements' preference 11.99
- moral rights 11.103
- on-demand services' exclusion 11.102
- private use limitations 11.101
- right of attribution 11.103
- scope limitations 11.100, 13.58
- temporary acts of reproduction, mandatory exception 20.34–9
- Information Society Directive (Directive 2001/29), reproduction right (Article 2) 11.04–12
- 'by any means and in any form' 11.06
- computer programs and databases, exclusion of 11.10
- 'direct or indirect' 11.08
- ephemeral recordings of works made by broadcasting organisations for their own broadcasts 11.11
- 'in whole or in part' 11.12
- 'temporary or permanent' 11.09
- three-step test 11.09
- Information Society Directive (Directive 2001/29), right of communication to the public (Article 3) 11.13–35
- author definition 11.15
- computer programs and copyright databases 11.27
- download-to-own (DTO) software market 11.33
- exhaustion of rights 11.32–5
- graphic user interface (GUI) broadcasting, exclusion of 11.23
- hardware provision 11.20–21
- harmonisation levels 11.16
- hypertext links and cloud services 11.28–9
- Internet as service 11.34
- internet service provider (ISP) facilities 11.21
- national law implementation 11.35
- on-demand services 11.26
- 'public', notion of 11.30–31
- public performance exclusion 11.18
- right of 'making available to the public' 11.24–7, 11.32, 20.23, 20.25
- 'transmission' cover 11.25

- as umbrella right 11.17
- Information Society Directive (Directive 2001/29), rights management information obligations (Article 19) 11.129–42
- actionable acts 11.137–40
- ‘adequate legal protection’ for persons ‘knowingly’ performing ‘unauthorised’ acts 11.132–6
- authorisation markings 11.142
- copyright and related rights 11.133
- distribution rights 11.138
- international standardisation and identification systems 11.141
- knowledge/intention requirement 11.136
- reproductions of altered works 11.139
- third country importation 11.138
- Information Society Directive (Directive 2001/29), sanctions and remedies (Article 8) 11.143–70, 15.33–4
- appropriate sanctions and remedies’ in cases of infringements 11.146–7, 15.163
- damages actions or injunctions 11.148
- effective, proportionate and dissuasive measures 12.25
- intermediaries, injunctions against 11.149–70, 12.21, 12.167, 15.140, 15.147
- international obligations 11.145
- Information Society Directive (Directive 2001/29), sanctions and remedies (Article 8), Internet service providers (ISPs) liability 11.151–70, 12.138, 15.24
- access provider role only 11.160
- caching 11.161, 11.163, 11.164
- criminal proceedings 11.156–7
- exemption through lack of actual knowledge 11.163
- hosting 11.162, 11.163, 11.164
- infringer details inaccessible 11.168
- intermediaries, injunctions against 11.166–70
- intermediate storage 11.159, 11.161
- liability limitation 11.158–65
- mere conduit 11.158, 11.163, 11.164
- monitoring obligation, lack of 11.151–7
- national systems 11.155
- suspension or limitation of access 11.154
- third party transmission 11.165, 11.167
- without prejudice to the E-Commerce Directive 11.167
- Information Society Directive (Directive 2001/29), technological measures obligations (Article 6) 11.107–28, 15.32
- circumvention 11.114–19
- circumvention, adequate legal protection 11.118
- circumvention, security system research 11.119
- compliance obligations 11.113
- dual use cases 11.112
- effective measures 11.109–13
- EU law provisions 11.108
- preparatory acts 11.120–28
- infringements
 - alleged infringement cases, IPRED (Article 7) 12.84–6
 - committed on a commercial scale, IPRED (Article 6) 12.72–3, 15.41
 - and connecting factor, Rome II Regulation (Article 8) 18.76–82
 - Database Directive 9.26, 9.48–54, 9.67
 - growth, piracy policy 15.04
 - infringer’s fault, dependence on, IPRED (Article 12) 12.173
 - infringer’s financial state, consideration of, IPRED (Article 9) 12.146, 12.150–51
 - infringing character of act to authorise infringement abroad, Rome II Regulation 18.88
 - IPRED, methods to stop *see* Enforcement of Intellectual Property Rights Directive (IPRED) (2004/48), provisional and precautionary methods to stop infringements (Article 9)
 - ISPs, infringer details inaccessible, Information Society Directive, (Article 8) 11.168

- multi-state and ubiquitous infringement, Rome II Regulation *see* intellectual property and EU rules on private international law, legal choices, Rome II Regulation, multi-state and ubiquitous infringement
- non-culpable, IPRED (Articles 13 and 15) 12.191, 12.199
- remedies, IPRED (Article 2) 9.70
- risks, cultural heritage digitisation, orphan works 16.81
- suing for copyright infringement, IPRED (Article 4) 12.30, 12.32, 12.35, 12.39
- injunctions
- Information Society Directive (Article 8) 11.148
- injunctive relief availability, Rome II Regulation (Article 16) 18.88
- interlocutory injunctions, IPRED 12.85, 12.137–8, 12.167, 15.44
- intermediaries, injunctions against *see* Information Society Directive, sanctions and remedies (Article 8) and Internet piracy *see* piracy, policies and actions in fight against, Internet piracy, legislative actions, compatibility of injunctions and blocking orders and fundamental rights
- permanent, IPRED *see* Enforcement of Intellectual Property Rights Directive (IPRED), injunctions, permanent (Article 11)
- sampling and interlocutory injunctions, IPRED (Article 6) 12.66, 12.85
- innovation, cultural heritage sector 16.38, 16.40, 16.48–9
- INTA Study, Anti-Counterfeiting Trade Agreement (ACTA) 15.201, 15.204, 15.208
- intellectual property
- Database Directive, *sui generis* right (Article 7) 9.31–2
- European Observatory and fight against piracy *see* piracy, policies and actions in fight against, European Observatory on infringements of intellectual property rights
- infringements *see* infringements
- IPR Enforcement Strategy in Third Countries 15.87, 15.282
- piracy and IP crime *see* piracy, policy and actions in fight against, intellectual property crime, policial and judicial cooperation
- protection, folklore and traditional cultural expressions 19.50
- rights definition, EC Treaty 12.07
- intellectual property and EU rules on private international law 18.01–93
- Brussels I Regulation 18.02–29
- Brussels I Regulation, Article 8.1 (multiple defendants) 18.03–7
- Brussels I Regulation, defendants acting in an identical or similar manner 18.06
- Brussels I Regulation, diverging decisions not treated as contradictory 18.05
- jurisdiction 18.02–29
- legal choices 18.30–92
- multiple defendants 18.02, 18.03–7, 18.21
- parallel territorial IP rights and damage occurring in several jurisdictions 18.02, 18.07, 18.19
- intellectual property and EU rules on private international law, Brussels I Regulation, Article 24(4) (exclusive jurisdiction rule) 18.08–29
- copyright validity issues 18.11, 18.12–18, 18.20
- copyright validity issues and consolidated cases 18.19, 18.20
- copyright validity issues, *inter-partes* approach 18.25–9
- copyright validity issues, parallel litigation 18.19
- copyright validity issues, plea in objection 18.15
- copyright validity issues, Zurich approach 18.17–18, 18.20
- infringement action only 18.16
- multiple defendants and anti-suit injunction 18.21
- national procedure links 18.09

- registration process errors 18.12–13
- registration restrictions 18.10
- torpedoes and cross-border litigation 18.21
- intellectual property and EU rules on private
 - international law, legal choices, Rome I Regulation 18.31–63
 - applicable law in absence of choice 18.36–63
 - characteristic performance rule (Article 4(4)) 18.39–41
 - characteristic performance rule (Article 4(4)), protecting country link 18.40–41
 - consumer contracts, mandatory rules (Article 6) 18.51–2
 - contractual freedom 18.44–6
 - habitual residence law (Article 4(1) and (2)) 18.36–7, 18.51
 - limitations on applicable law 18.42–63
 - limitations on applicable law, relevant provisions 18.44–6
 - mandatory rules 18.42–3, 18.46
 - mandatory rules in international sense (Article 9) 18.53
 - mandatory rules or overriding mandatory provisions of the forum (Article 7) 18.54–8
 - mandatory rules or overriding mandatory provisions of third States (Article 9) 18.58, 18.59–61
 - mandatory rules which cannot be derogated from by contract (Article 3(3) and (4)) 18.47–50
 - public policy/*ordre public* emergency clause (Article 21) 18.62–3
- intellectual property and EU rules on private
 - international law, legal choices, Rome I Regulation, freedom of the parties to choose the applicable law (Article 3) 18.31–5
 - choice demonstrated by terms of contract 18.33
 - express choice of law 18.32
 - for part of contract 18.34
- intellectual property and EU rules on private
 - international law, legal choices, Rome II Regulation 18.64–92
 - characterisation issue 18.67–9
 - infringement and the connecting factor (Article 8) 18.76–82
 - infringing character of the act to authorise infringement abroad 18.88
 - injunctive relief availability (Article 16) 18.88
 - non-contractual obligations arising from the infringement of IP rights (Article 8(3)) 18.86
 - overriding mandatory provisions and public policy 18.87–8
 - scope 18.64–70
 - intellectual property and EU rules on private
 - international law, legal choices, Rome II Regulation, multi-state and ubiquitous infringement 18.89–92
 - de minimus* rule 18.91–2
 - infringement much larger in scope in one country than another 18.91
 - single law application 18.90
 - intellectual property and EU rules on private
 - international law, legal choices, Rome II Regulation, non-contractual obligation in law of country for which protection is claimed (Article 8(1)) 18.71–85
 - direct liability and contributory liability distinction 18.81–2
 - intellectual property rights exemptions 18.75
 - intellectual property rights in 18.74–5
 - issues to which applicable law applies 18.83–5
 - law of the country for which protection is sought approach 18.77–80, 18.91–2
 - licence contracts, effects of 18.85
 - procedural and infringement issues, distinction between 18.84–5
 - relationship with general rule in Article 4 18.73
 - validity issues 18.77
- Intellectual Property Rights Directive *see* Enforcement of Intellectual Property Rights Directive (IPRED)
- Intellectual Property Strategy 0.07, 11.94
- Digital Agenda initiative 0.07

- intermediaries
 cultural heritage, digitisation and
 copyright law 16.109–11
 ‘exporting’ injunctive relief against, piracy
 policies 15.183
 involvement, piracy policies 15.34
 IPRED (Article 2) 12.20–21, 12.138
 online filtering, piracy policies 15.147–8
 provisional measures against, IPRED
 (Article 9) 12.137–9
 understanding of term, IPRED (Article 9)
 15.52, 15.147
- intermediaries, injunctions against
 E-Commerce Directive 12.167–8
 Information Society Directive *see*
 Information Society Directive,
 sanctions and remedies (Article 8)
 IPRED (Article 11) 12.167–9, 15.52,
 15.140
 piracy policies 15.140, 15.147
- intermediate storage, Information Society
 Directive, sanctions and remedies
 (Article 8) 11.159, 11.161
- international stance 19.01–61
 European Commission role 19.04
 European External Action Service
 (EEAS) 19.05
 EU’s mandate 19.01–3
 EU’s mandate and *acquis communautaire*
 19.01–3
 TRIPs Agreement negotiations 19.02
 WIPO, exclusive competence debate 19.61
 WIPO involvement 19.02–3, 19.05
 WIPO time frame concerns 19.58–60
see also individual organisations and
 treaties
- international stance, Beijing Treaty on
 Audiovisual Performances 19.06–19
 adoption 19.19
 deadlock solutions 19.16, 19.17–19, 19.35
 Diplomatic Conference of 2000 and
 aftermath 19.16, 19.18
 Draft Protocol, EU position on 19.13
 Protocol proposal to WPPT for
 audiovisual performances 19.09–11
 Standing Committee on Copyright and
 Related Rights (SCCR), deadlock
 solutions 19.16, 19.17
 Standing Committee on Copyright and
 Related Rights (SCCR),
 establishment of 19.11, 19.12, 19.13,
 19.16
 transfer of rights from performers to
 producers 19.14–15, 19.16, 19.17–18
 WPPT Diplomatic Conference and
 protection of performers 19.06–8
- international stance, copyright exceptions
 and limitations, folklore and traditional
 cultural expressions, protection
 proposals 19.47–55
 commercial exploitation concerns 19.49,
 19.50
 copyright protection conflict 19.50
 EU stance 19.49–50, 19.51
 intellectual property protection 19.50
 UNESCO involvement 19.47
 WIPO Intergovernmental Committee
 (IGC) involvement 19.47, 19.48,
 19.49, 19.51–4
 WIPO Intergovernmental Committee
 (IGC) involvement, future work
 19.55
 WIPO Intergovernmental Committee
 (IGC) involvement, unresolved issues
 19.53–4
- international stance, copyright exceptions
 and limitations, proposals concerning
 19.32–46
 blind and visually impaired, status of
 goods produced for 19.33, 19.35,
 19.36, 19.37, 19.39, 19.40, 19.43–4,
 19.46
 Chilean initial proposal 19.32–4
 draft texts, emergence of 19.40–46
 EU position 19.35
 EU response 19.38–9
 limitations and exceptions for the benefit
 of educational activities 19.34, 19.37
 limitations and exceptions for libraries and
 archives 19.41, 19.45, 19.46

- three-step test 19.37, 19.38, 19.46
- international stance, Draft Treaty on the
 - Protection of Broadcasting Organisations 19.20–31
 - emergence of 19.27–31
 - EU position 19.24–6
 - existing international framework 19.20–21
 - future work on draft treaty, lack of agreement on 19.30
 - legal framework modernisation, call for 19.26
 - regional consultations 19.25, 19.27, 19.28
 - Rome Convention protection of broadcasting organisations 19.20–21
 - Satellites Convention protection of broadcasting organisations 19.20–21
 - socio-economic impact of broadcasting piracy studies 19.28
 - technical issues, WIPO consultations on 19.29
 - TRIPs Agreement protection of broadcasting organisations 19.20–21
 - webcasting and simulcasting, inclusion of 19.27
 - WIPO Programme on the protection of broadcasting organisations 19.22–3, 19.29
 - working document adoption 19.30
- international standardisation and
 - identification systems, Information Society Directive (Article 19) 11.141
- Internet
 - access security, enhanced, piracy policies 15.23
 - blocking orders, E-Commerce Directive 15.157, 15.172
 - borderless internet and EU borders, conflict between 21.23
 - Creative Content Online initiative 17.23–4
 - cybercrime *see* cybercrime
 - free movement of goods 1.21, 1.24, 3.08–9, 3.11, 3.12–14
 - free movement of goods principle 3.11
 - musical works for online use *see* Collective Rights Management Directive
 - online licensing, Technology Transfer Block Exemption Regulation (TTBER) 21.21
 - online publishing programme on best practice guidelines, cultural heritage 16.38
 - piracy *see* piracy, policies and actions in fight against, Internet piracy
 - public-service value 15.165
 - as service, Information Society Directive (Article 3) 11.34
 - users petition against piracy, Anti-Counterfeiting Trade Agreement (ACTA) 15.207
 - webcasting and simulcasting, inclusion of, Draft Treaty on the Protection of Broadcasting Organisations 19.27
- Internet service providers (ISPs)
 - illegal content awareness, piracy policies 15.134, 15.136
 - IPRED (Articles 8 and 9) 11.157, 11.169, 12.52, 12.108, 12.117, 12.121, 12.138, 15.128
 - IPRED, injunctions, permanent (Article 11) 15.52
 - liability issues, E-Commerce Directive 11.151–2, 11.156–7, 11.158–65, 11.166–7, 12.138, 12.168, 15.128, 15.276
 - limited liability, piracy policies, Anti-Counterfeiting Trade Agreement (ACTA) 15.227
 - sanctions and remedies, Information Society Directive *see* Information Society Directive, sanctions and remedies (Article 8), Internet service providers (ISPs) liability
- IPRED *see* Enforcement of Intellectual Property Rights Directive (IPRED)
- Ireland
 - Copyright Act and private use exception 20.44
 - Irish Visual Artists Rights Organisation (IVARO) 10.55
 - ISP liability 11.155
 - resale right, term of protection 10.82

- resale right transitional period 10.18, 10.77
- resale right transposition, collective rights management 10.55
- ISPs *see* Internet service providers (ISPs)
- Italy
- collective work category 1.15
 - Copyright Act and *La Bohème* 2.16
 - Flos* 20.29–30
 - 'graduated response' to Internet blocking 15.127
 - Private International Law Act 18.76
 - rental right as exclusive right 6.14
 - resale right 10.02
 - resale right, collective rights management 10.56
 - term of protection 20.29–30
 - torpedoes and cross-border litigation 18.21
- Janssens, Marie-Christine 5.01–138
- judicial cooperation, piracy policies *see* piracy, policies and actions in fight against, intellectual property crime, policial and judicial cooperation
- judicial decisions, publication, IPRED *see* Enforcement of Intellectual Property Rights Directive (IPRED) (2004/48), publication of judicial decisions (Article 15)
- Klass, Nadine 16.01–121
- knowledge transfer, cultural heritage, Europeana 16.35–6, 16.38
- knowledge/intention requirement, Information Society Directive (Article 19) 11.136
- Korean Copyright Act, fair use clause 11.98
- legal challenges, cultural heritage *see* cultural heritage, digitisation and copyright law, legal challenges
- legal costs, IPRED *see* Enforcement of Intellectual Property Rights Directive, legal costs (Article 14)
- legal framework, piracy policies 15, 278–80, 15.05, 15.274, 15.277
- Legal Protection of Computer Programs Directive (Directive 91/250) 3.09, 6.49
- rental of computer programs 6.55–7
- see also* computer programs; Software Directive
- Legal Protection of Databases Directive 3.11
- legislative initiatives
- Digital Agenda initiative 17.16
 - piracy policies *see* piracy, policies and actions in fight against, Internet piracy, legislative actions
- lending rights *see* Rental and Lending Rights Directive
- libraries
- comprehensive European Digital Library, need for 16.120–21
 - digital libraries, Digital Agenda initiative 13.22
 - digital libraries, Orphan Works Directive (Article 1) 13.03
 - Europeana *see* cultural heritage, digitisation and copyright law, initiatives, Europeana
 - i2010 European Libraries Initiative 16.23–4
 - Information Society Directive 11.95
 - limitations and exceptions, international stance 19.41, 19.45, 19.46
 - see also* education sector
- Licences for Europe initiative 11.94, 21.32–3
- licensing
- agreements in Continental Europe 21.37
 - collective *see* collective licensing
 - Collective Rights Management Directive *see* Collective Rights Management Directive, licensing (Article 15)
 - compulsory, and anti-competitive practices (TRIPs Agreement) 4.72
 - contracts, effects of, Rome II Regulation 18.85
 - cross-border and pan-European licensing 17.15
 - doctrine of implied licence 11.90–91
 - European Licensing Passport, Digital Agenda initiative 17.16
 - facilitation, EU Copyright Law, working towards 21.12, 21.13, 21.14

- multi-territorial *see* Collective Rights Management Directive,
 - multi-territorial licensing access (Article 30)
 - 'new product' requirement, essential facilities principle 4.20, 4.59
 - practice convergence, EU Copyright Law, working towards 21.34
 - practices, TRIPs Agreement 4.69–71
 - protection, Database Directive 9.71
 - refusal and dominance abuse, essential facilities principle 4.04
 - rules, objectives of, EU Copyright Law, working towards 21.34
 - 'Saas' models (Software as a Service) licences 5.89
 - Satellite and Cable Directive (Article 1) 7.17–18
 - Technology Transfer Block Exemption Regulation (TTBER) 21.21
 - voluntary, Collective Rights Management Directive (Article 15) 14.55
- lis pendens* provision, piracy policies 15.60, 15.65
- literary or artistic work definition, Term Directive 8.11
- logos, piracy policies 15.71, 15.72
- Lucas-Schloetter, Agnès 1.01–24
- Luxembourg
 - rental right as exclusive right 6.15
 - resale right, term of protection 10.84
- Maastricht Treaty, cultural aspects 1.19
- Malta, resale right transitional period 10.18
- mandatory exceptions
 - Information Society Directive 11.66, 20.34–9
 - Satellite and Cable Directive (Article 10) 7.74–5
- mandatory provisions
 - collective rights management, Satellite and Cable Directive (Article 9) 7.68–70
 - copyright contracts, Information Society Directive 11.97
 - IPRED (Article 8) 12.101
 - registration, Orphan Works Directive (Article 3) 13.39
 - Rome I Regulation 18.42–3, 18.46, 18.47–50, 18.53, 18.54–8
 - Rome II Regulation 18.87–8
 - transient copies' limitations, Information Society Directive 11.76
 - unfair trading conditions, Collective Rights Management Directive (Article 5) 14.30
- markets
 - concentration risk, Collective Rights Management Directive 14.68
 - internal market competitiveness, Resale Right Directive 10.08–9
 - and piracy *see* piracy, policies and actions in fight against, internal market and at external borders
 - share fears, Resale Right Directive (Article 11) 10.91–3
- Massive Open Online Courses (MOOCs) 21.59
 - see also* education sector
- media literacy in the digital environment 15.22
- medicine, Pharmacrime 15.116
- Minero, Gemma 8.01–72
- Moldova, counterfeit and pirated goods 15.04
- monitoring
 - obligation, lack of, Information Society Directive, Internet service providers (ISPs) liability 11.151–7
 - transmitted information, piracy policies 15.130, 15.147
- MOOCs (Massive Open Online Courses) 21.59
 - see also* education sector
- moral rights
 - author's name on digitised work 16.75
 - computer programs created by employees 5.53–4
 - in Continental Europe 21.35
 - and copyright ownership 20.04
 - cultural heritage, digitisation of copyrighted material 16.72–7
 - Database Directive (Article 6) 9.30
 - of employees, Copyright Directive 5.54
 - essential facilities principle 4.41

- evolution of copyright law 1.16
 Information Society Directive, Technical
 Protection Measures (TPMs) 11.103
 Software Directive 5.92–3
 Term Directive 8.54
 multi-volume publications
 Term Directive 8.18
 see also publishers
 multiple authors and owners, Orphan Works
 Directive (Article 2) 13.29
 multiple defendants, Brussels I Regulation
 18.02, 18.03–7, 18.21
 multiple right holders, Orphan Works
 Directive 13.29–30
 musical works
 online dissemination 1.21, 1.24
 for online use *see* Collective Rights
 Management Directive
 national laws
 Brussels I Regulation 18.09
 CJEU role in EU Copyright law
 development 20.02
 Collective Rights Management Directive
 14.04, 14.10, 14.76, 14.77
 country of origin rule, Satellite and Cable
 Directive 7.16–18, 7.20, 7.34–6, 7.45,
 7.87
 cultural heritage, digitisation and
 copyright law 16.42
 Database Directive 9.72, 9.73
 EU Copyright Law, working towards
 21.10
 evolution of copyright law 1.10
 Information Society Directive 11.35,
 11.41, 11.85, 11.87–92, 11.155
 IPRED 12.48, 12.113–14, 12.123, 12.163,
 12.164, 12.167, 12.198, 15.36
 Orphan Works Directive 13.02, 13.21,
 13.62
 piracy policies 15.25, 15.58, 15.59, 15.61
 Resale Right Directive 10.40, 10.49–50
 Satellite and Cable Directive 7.65–6
 Term Directive 8.63–4
 see also individual countries; territoriality
 national treatment principle
 non-discrimination *see under*
 non-discrimination principle
 third country protection and treatment of
 aliens (Article 7) 8.49
 neighbouring rights
 Digital Agenda initiative 17.19
 protected performance of performer,
 Rental and Lending Rights Directive
 6.82
 Term Directive 8.02
 transferability, Rental and Lending Rights
 Directive 6.99
 Neighbouring Rights Directive *see* Copyright
 and Neighbouring Rights Directive
 Nérisson, Sylvie 6.01–105
 Netherlands
 Internet access blocking,
 ‘notice-and-action’ systems 15.127
 ISP liability 11.155
 Private International Law Act on Torts
 18.76
 resale right, term of protection 10.83
 resale right transitional period 10.18,
 10.77
 resale right transposition, collective rights
 management 10.55
 Roche Nederland BV v Primus 18.04–6,
 18.07
 Stichting Pictoright 10.55
 new online business models 21.45, 21.46
 ‘new product’ requirement, essential facilities
 principle 4.20, 4.53, 4.58, 4.59
 new uses, unknown, Information Society
 Directive 11.98
 New Zealand, ‘graduated response’ to
 Internet blocking 15.127
 non-commercial education exceptions
 21.59–60
 see also education
 non-contractual obligation, Rome II
 Regulation *see* intellectual property and
 EU rules on private international law,
 legal choices, Rome II Regulation,
 non-contractual obligation in law of
 country for which protection is claimed

- non-culpable infringement, IPRED 12.191, 12.199
- non-discrimination principle 2.01–20
 civil law countries 2.03
 Collective Rights Management Directive 14.29, 14.52
 country of origin definition 2.08
 country of origin of work 2.17
 material reciprocity 2.08
 national treatment principle 2.04–18
 national treatment principle in European legal framework 2.11–18
 national treatment principle in international legal framework 2.06–10
 national treatment principle, non-EU citizens' exclusion 2.13
 nationality grounds 1.04, 1.11, 6.47
 and natural law philosophy 2.02, 2.04, 2.07
 roots of 2.02
 territoriality principle 2.07
- non-members rights, Collective Rights Management Directive *see* Collective Rights Management Directive, non-members rights (Article 6A)
- non-profit and/or non-commercial usage, Orphan Works Directive 13.07, 13.52
- Norway
 extended collective licensing (ECL) 21.44
Fin Eiendom AS v Notar AS 11.08
 indirect reproduction 11.08
 Internet access blocking 15.127
- 'notice-and-action' (N&A) systems, piracy policies 15.127, 15.129, 15.132, 15.135–7, 15.144, 15.175, 15.179
- OECD, 'The Economic Consequences of Counterfeiting' 15.03
- Office for Harmonisation in the Internal Market (OHIM) 13.40–41, 13.45–6, 13.48, 15.96–9, 15.102
- OLAF (European Anti-Fraud Office) 15.113, 15.117, 15.118, 15.119
- on-demand services, Information Society Directive 11.26, 11.102
- 'on-the-spot' use, exclusion of, Rental and Lending Rights Directive 6.27
- online services *see* Internet
- open-source licensing systems 4.24
- originality
 concept 1.15
 condition, Software Directive 5.31–7
 manuscripts, exclusion of, Resale Right Directive 10.31
 standard, CJEU 20.08–12
- orphan works
 Collective Rights Management Directive 14.39, 14.63
 cultural heritage *see* cultural heritage, digitisation and copyright law, orphan works
 database development, piracy policies 15.107, 16.118
 extended collective licensing (ECL) in Scandinavian countries 21.40–44
- Orphan Works Directive (Directive 2012/28) 13.01–62
 application in time (Article 8) 13.59–60
 commercial digital databases with technical protection measures 13.58
 continued application of other legal provisions (Article 7) 13.56–8
 derogations to exclusive copyrights 6.66
 and Digital Agenda initiative, digital single market 17.07, 17.12
 end of orphan work status (Article 5) 13.48
 and Europe 2020 Strategy 16.84
 mutual recognition of orphan work status (Article 4) 13.47, 16.86–7
 review clause (Article 10) 13.62
 search criteria (Article 1) 16.85
 transposition (Article 9) 13.61, 16.88
- Orphan Works Directive (Directive 2012/28), diligent search (Article 3) 13.31–46
 appropriate sources 13.34–6
 ARROW database initiative 13.42–5
 central EU database/register 13.42–6
 collecting societies and collective licensing 13.34, 13.48

- extraneous sources 13.38
 framework 13.31–2
 and good faith 13.33
 grey literature sector 13.35
 mandatory registration 13.39
 Office for Harmonization in the Internal Market (OHIM) database 13.40–41, 13.45–6, 13.48
 one-search per Member State rule 13.37–8
 parallel databases, concerns over 13.40–41
 recordation and public register 13.39–46
 scope and effect 13.37–8
 shared database identifiers 13.44–5
 third-party search organisations, regulation of 13.33
 works falling outside scope of existing databases or trade organisations 13.35
- Orphan Works Directive (Directive 2012/28), orphan works (Article 2) 13.25–30
 anonymous and pseudonymous works, effect on 13.28
 definition 13.25–8
 in EU context 13.26–7
 multiple authors and owners 13.29
 multiple right holders 13.29–30
 policy background 13.25
 status duration 13.30
- Orphan Works Directive (Directive 2012/28), permitted used (Article 6) 13.50–55
 beneficiaries 13.51–3
 compensation to right holders 13.54–5, 16.86
 fair remuneration and compensation 11.106, 16.86
 nature of use 13.52–3
 ‘not-for-profit use’ principle 13.52
 public interest organisations, nature of 13.51, 13.53, 13.54
 public–private partnerships with commercial entities, exclusion of 13.52
 reproduction right and making available 13.50, 16.86–7
 scope 13.50
 three-step test 13.56
- Orphan Works Directive (Directive 2012/28), subject matter and scope (Article 1) 13.01–24, 16.85
 beneficiaries 13.05–9
 cinematographic and audiovisual works, phonograms and broadcasts 13.13–16
 cinematographic and audiovisual works, phonograms and broadcasts, archival collections 13.16
 collective licensing scheme, extended 13.20, 13.62
 collective management and Memorandum of Understanding 13.21–4
 cross-border access of content 13.02–3
 digital libraries 13.03
 electronic print sector 13.11–12
 film/audio heritage and public service broadcasters 13.08
 identification of orphan works and collective management representation 13.24
 Memorandum of Understanding 13.04, 13.21–4, 13.47
 national level developments 13.02, 13.21, 13.62
 non-profit and/or non-commercial usage 13.07
 place of publication and unpublished works 13.20
 print works – writings, images and embedded works/subject-matter 13.11–12, 13.62
 private institutions 13.07
 public interest missions 13.09
 ‘publicly accessible’ institutions as beneficiaries 13.05–7
 rationale and objectives 13.01–4
 stand-alone photographs and images 13.17–19, 13.62
 subject matter 13.10–20
 voluntary agreements 13.21–3
- outsider rights, Satellite and Cable Directive 7.71–2, 7.75
- parallel databases, concerns over, Orphan Works Directive 13.40–41

- ‘passport’ route, Collective Rights
 Management Directive 14.66, 14.69, 14.70
- pecuniary compensation, IPRED 12.24, 12.171–2, 12.175, 12.176, 12.182, 12.187–8
see also compensation
- penalties
 IPRED 12.129, 12.166, 15.81–4, 15.87
see also enforcement
- performers
 fixation right, Rental and Lending Rights Directive (Article 7) 6.76–8
 national treatment principle 2.09
 performance fixation, Term Directive 8.33
 and producers of phonograms, specific rules, Term Directive (Article 3) 8.32–9
 protected performance of performer in context of neighbouring rights, Rental and Lending Rights Directive (Article 8) 6.82
 remuneration shared between performers and producers, Rental and Lending Rights Directive (Article 8) 6.94
 rights, Satellite and Cable Directive *see* Satellite and Cable Directive, rights of performers, phonogram producers and broadcasting organisations
see also producers
- Personal Data Processing Directive (Directive 95/46)
 collective rights management 14.82
 data retention 12.118
 national law 12.116
- personal data protection
 CJEU role in EU Copyright law development 20.03
 Collective Rights Management Directive (Article 41) 14.82
 Copyright Directive (Article 9) 12.125
 E-Commerce Directive 12.125
 and freedom of expression, IPRED (Article 3) 12.24
 piracy policies 15.59, 15.151
 processing and its free movement, IPRED (Article 2) 12.17
see also confidentiality protection; privacy protection
- Pharmacrime 15.116
- phonograms
 Copyright and Neighbouring Rights Directive (Article 3) 8.32–9, 8.63–4
 Geneva Convention *see* Geneva Phonogram Convention
 national treatment principle 2.09
 Orphan Works Directive (Article 1) 13.13–16
 Rental and Lending Rights Directive (Article 14) 8.26
 Satellite and Cable Directive *see* Satellite and Cable Directive (Directive 93/83), rights of performers, phonogram producers and broadcasting organisations
 Term Directive (Article 3) 8.32–9, 8.34
 WIPO Treaty *see* WIPO Performance and Phonogram Treaty (WPPT)
see also cinematographic and audiovisual works
- photographs
 originality/creativity standard, portrait photographs, CJEU role in EU Copyright law development 20.11
 protection, Term Directive (Article 6) 8.44–7
 publication for commercial purposes, piracy policies 15.173–4
 reproduction and author verification, CJEU role in EU Copyright law development 20.41–2
 reproduction/adaptation, photographic template, CJEU role in EU Copyright law development 20.16
 reproductions of two- and three-dimensional cultural objects 16.55–6
 stand-alone photographs and images, Orphan Works Directive (Article 1) 13.17–19, 13.62
- piracy, policies and actions in fight against 15.01–282
 Berne Convention 15.06

- counterfeiting and piracy, differences
 between 15.02
- cybercrime plurilateral initiative (Council
 of Europe) 15.13
- digital technology protection 15.04
- dispute settlements 15.11
- economic effects 15.03
- Information Society Directive 12.02
- IPR infringements growth 15.04
- legal framework and enforcement, need
 for 15.05
- overview 15.01–5
- piracy concept 15.01–2
- Product Piracy Regulation *see* Product
 Piracy Regulation
- TRIPS Agreement 15.05, 15.10–12
- WIPO Internet Treaties 15.12
- piracy, policies and actions in fight against,
 EU policies, criminal enforcement of
 copyright and related rights 15.78,
 15.80–87, 15.222
- commercial scale, lack of definition in
 IPRED2 15.82–3
- counterfeiting among top revenue sources
 for organised crime networks 15.80
- deterrent criminal sanctions 15.81
- Europe 2020 Strategy 15.86
- European Search Warrant limitations
 15.87
- IPR Enforcement Strategy in Third
 Countries 15.87
- legally binding acts, adoption of 15.85
- penalty level harmonisation (IPRED2)
 15.81–4, 15.87
- piracy, policies and actions in fight against,
 EU policies, customs enforcement of
 copyright and related rights 15.67–79
- Border Measures Regulation 15.68–9,
 15.71–3
- Customs Action Plan 15.79
- Customs cooperation reinforcement 15.68
- Customs enforcement regime 15.17,
 15.19–21
- Customs seizures 15.04
- destruction of goods with declarant's or
 holder's express agreement 15.75–7
- destruction of small consignments of
 allegedly counterfeit or pirated goods
 15.74, 15.76–7
- EU Customs Action Plan 15.68
- extension of border measures to larger
 number of IPR infringements 15.70
- free circulation of counterfeit goods,
 measures to prohibit 15.67
- goods suspected of infringing certain
 intellectual property rights 15.67
- goods in transit 15.73
- logos, instructions for use, guarantee
 documents, packaging materials
 bearing a counterfeit trademark
 15.71, 15.72
- moulds and matrices for manufacture of
 goods infringing IPRs 15.71
- right holders' application forms to request
 border measures 15.72
- Union application 15.72
- World Customs Organisation (WCO)
 IPM platform 15.123
- piracy, policies and actions in fight against,
 EU policies, emergence of 15.14–29
- Anti-Counterfeiting Trade Agreement
 (ACTA), call for ratification of 15.27
- 'Communication on a New Industrial
 Property Rights Strategy for Europe'
 15.21
- Comprehensive European Anti-
 Counterfeiting and Anti-Piracy Plan
 15.21
- copyright issues requiring immediate
 action (1988) 15.15, 15.16
- Customs enforcement regime 15.17,
 15.19–21
- damaging effects of piracy, recognition of
 15.16
- enforcement of intellectual property rights
 15.15, 15.16
- 'Enhancing the Enforcement of
 Intellectual Property Rights in the
 Internal Market' 15.25
- EU approach to the fight against piracy
 15.28–9
- free market principle 15.17

- harmonisation of civil-law legislation 15.18
- harmonisation of national substantive laws, limitations of 15.14–15
- Internet access security, enhanced 15.23
- legislative instruments 15.29
- ‘Making the Internal Market work better’ 15.24
- media literacy in the digital environment 15.22
- national anti-counterfeiting and anti-piracy strategies, call for development of 15.25
- policy development 15.14–27
- public awareness campaigns 15.27
- ‘Recommendation on Measures to Improve the Functioning of the Single Market’ 15.24
- SMEs, consideration of specific problems of 15.26
- ‘Strategy for the Enforcement of Intellectual Property Rights in Third Countries’ 15.19
- piracy, policies and actions in fight against, European Observatory on infringements of intellectual property rights 15.25, 15.79, 15.90–109, 15.179, 15.281, 15.282
- counterfeit medicines conference 15.116
- Counterfeiting and Piracy 15.95
- future awareness campaigns 15.104
- guides for EU businesses operating in third countries 15.104
- Legal Sub-group 15.93, 15.107
- Office for Harmonisation in the Internal Market (OHIM) involvement 15.96–9, 15.102
- Online Copyright Infringements Sub-group 15.107
- orphan works database development 15.107
- public awareness, raising 15.94, 15.107
- public consultation results 15.101–2
- public–private partnership (PPP) 15.100
- restructuring 15.96–102
- scope, scale and impact of IPR infringements, RAND method of data collection 15.95, 15.106
- Stakeholders’ Dialogues 15.89
- statistics 15.95
- study on contribution of intellectual property intensive industries to the economy 15.104
- Sub-groups 15.92–5, 15.107
- technical cooperation programmes in non-EU countries (ECAP III and IP Key) implementation 15.104
- Work Programme 2013 15.102–3, 15.105, 15.106, 15.108
- piracy, policies and actions in fight against, future directions 15.270–82
- ‘A Single Market for Intellectual Property Rights’ 15.277
- ‘Digital Agenda for Europe’ 15.277, 15.278–9
- enforcement treaty, need for 15.271, 15.273
- ‘Europe 2020 Strategy’ 15.277
- institutional framework improvements 15.281
- ‘IP Perception’ survey and tolerance of IPR infringements 15.282
- IPRED and future bilateral agreements 15.275
- legal framework for enforcement of IPRs, loopholes in 15.274
- legal framework modernisation 15.277, 15.278–80
- online infringements 15.276
- private rights and public interest balance 15.282
- piracy, policies and actions in fight against, intellectual property crime, policial and judicial cooperation 15.110–21
- customs cooperation 15.118
- European Anti-Fraud Office (OLAF) involvement 15.113, 15.117, 15.118, 15.119
- European Cybercrime Centre (EC3) 15.115

- and Europol 15.111–16
- intellectual property crime project 15.113
- interstate cooperation, need for 15.110
- and IPR Center task force 15.116
- judicial cooperation and Eurojust 15.117
- mutual assistance instruments 15.119–21
- mutual assistance instruments, Convention on Mutual Assistance in Criminal Matters 15.119
- mutual assistance instruments, Operations ‘Gomorra’, ‘Flashpoint’ and ‘Fox’ 15.120
- Pharmacrime 15.116
- private sector partnership 15.114
- Project Cyber Monday 3 15.116
- Serious and Organised Crime Threat Assessment (SOCPA2013) 15.116
- piracy, policies and actions in fight against, internal market and at external borders 15.30–123
- ‘breaking bulk’ techniques 15.34
- Directorate General role 15.30
- indirect (or contributory) infringement 15.34
- intermediaries, involvement of 15.34
- legislative actions 15.31–87
- piracy, policies and actions in fight against, internal market and at external borders, civil enforcement of copyright and related rights 15.31–66
- Infosoc Directive 15.31–4
- Infosoc Directive, sanctions and remedies (Article 8) 15.33–4
- Infosoc Directive, technological measures’ protection (Articles 6 and 7) 15.32
- piracy, policies and actions in fight against, internal market and at external borders, civil enforcement of copyright and related rights, Brussels I Regulation 15.56–66
- Commission assessment 15.60
- cross-border collection of evidence 15.66
- cross-border enforcement of judicial decisions, simplification 15.63–6
- foreign judgments, declaration of enforceability (*exequatur*) (Article 38) 15.62, 15.63
- foreign judgments, recognition and execution (Articles 33 and 34) 15.62
- lis pendens* provision (Article 27) 15.60, 15.65
- national jurisdiction provisions 15.58, 15.59, 15.61
- personality rights (Article 5) 15.59
- related actions provision (Article 28) 15.60
- scope 15.57
- ‘special jurisdiction’ rule (Article 5) 15.58, 15.59
- piracy, policies and actions in fight against, internal market and at external borders, civil enforcement of copyright and related rights, IPRED 15.35–55
- commercial scale, lack of definition in IPRED2 15.82–3
- costs of proceedings, recovery of (Article 14) 15.47
- damage awards, assessment problems 15.53, 15.54
- damage awards, lack of deterrence in 15.50
- damages payments (Article 13) 15.46, 15.50, 15.53, 15.54
- digital infringements, lack of detail on 15.49
- disposal of infringing goods (Article 10) 15.55
- evidence in control of opposing party (Article 6) 12.68, 15.41
- evidence, provisional measures for preserving evidence (Article 7) 15.42
- and future bilateral agreements 15.275
- information disclosure (Article 8) 15.43, 15.50, 15.51
- interlocutory and permanent injunctions (Articles 9 and 11) 15.44
- intermediaries, understanding of term (Article 9 and 11) 15.52, 15.147
- ISP role (Articles 9 and 11) 15.52
- penalty level harmonisation (IPRED2) 15.81–4, 15.87
- presumption of authorship where name appears ‘in the usual manner’ (Article 5) 15.40

- procedures and remedies necessary to ensure the enforcement of IPRs (Article 3) 15.39
- recall of goods from channels of commerce 15.45
- piracy, policies and actions in fight against, Internet piracy 15.124–80
- blocking access at request of right holder or of law enforcement agencies 15.127
- ‘graduated response’ to Internet blocking 15.127
- Infosc Directive 15.31–4
- mandatory licensing 15.127
- personal identity data, problems in obtaining 15.126
- Telecom Package, ‘three-strikes’ solution rejection 15.138
- piracy, policies and actions in fight against, Internet piracy, legislative actions, compatibility of injunctions and blocking orders and fundamental rights 15.127, 15.131, 15.140–80
- CJEU case law 15.143, 15.146–63
- CJEU case law, *Bonnier Audio* 15.151
- CJEU case law, *Promusicae* 11.79, 12.116, 15.143, 15.149–50, 20.03
- CJEU case law, *Scarlet* and *Netlog* 11.153, 12.169, 15.44, 15.143, 15.147–8
- CJEU case law, *UPC Telekabel Wien* 11.170, 15.152–63
- European Data Protection Supervisor (EDPS) and Anti-Counterfeiting Trade Agreement (ACTA) 15.175
- filtering by online intermediaries 15.147–8
- fundamental rights, impact on IPR enforcement 15.142–6
- internet monitoring legitimacy 15.175
- IPRED implementation and application 15.145
- ‘notice-and-action’ (N&A) systems 15.144
- personal data protection 15.151
- privacy protection and the freedom of expression 15.142–3
- right of information 15.149–50
- piracy, policies and actions in fight against, Internet piracy, legislative actions, compatibility of injunctions and blocking orders and fundamental rights, Council of Europe and the ECtHR 15.164–74
- Abmet Yıldırım v. Turkey* 15.170–72
- Asbby Donald and others v. France* 11.81–3, 15.173–4
- case law of ECtHR 15.166–74
- Committee of Ministers’ Recommendations 15.165
- internet filters 15.165
- K U v. Finland* 15.167
- photograph publication for commercial purposes 15.173–4
- Pravoye Delo Editorial Team and Shtekel v Ukraine* 15.169
- public-service value of the internet, promotion of 15.165
- Times Newspapers v. United Kingdom* 15.168
- piracy, policies and actions in fight against, Internet piracy, legislative actions, E-Commerce Directive 15.129–37
- blocking orders, lack of 15.131
- counter-notices 15.133
- European Data Protection Supervisor (EDPS) support 15.136, 15.146, 15.175
- hosting of websites, understanding of 15.133, 15.135
- information society service providers, obligation to inform of illegal activities 15.131
- injunctions against intermediaries 15.140, 15.147
- ISP illegal content awareness 15.134, 15.136
- monitoring of transmitted information (Articles 12–14) 15.130, 15.147
- ‘notice-and-action’ (N&A) systems 15.127, 15.129, 15.132, 15.135–7, 15.144, 15.175, 15.179
- public consultation on future of e-commerce 15.132, 15.133, 15.135
- Staff Working Paper 15.136
- terminology problems (Article 14) 15.132–3

- unjustified or abusive notices, dealing with 15.136
- piracy, policies and actions in fight against, Internet piracy, non-legislative actions 15.176–80
- codes of conduct 15.176–7
- ‘notice-and-action’ (N&A) systems and counterfeit goods 15.179
- Stakeholder Dialogues 15.178–80
- piracy, policies and actions in fight against, risk-analysis tools and electronic data interchange systems 15.122–3
- COPIS database 15.122, 15.123
- European Observatory ACIST (Anti-Counterfeiting Intelligence Support Tool) proposal 15.122
- European Observatory Enforcement Database 15.122, 15.123
- World Customs Organisation (WCO) IPM platform 15.123
- piracy, policies and actions in fight against, third countries 15.181–269
- DG TRADE involvement 15.181
- ‘exporting’ injunctive relief against intermediaries 15.183
- ‘IPR Enforcement Strategy in Third Countries’ 15.282
- online IPR infringements and legal framework adaptation requirements 15.184–5
- ‘priority countries’ list 15.182
- ‘Strategy for the Enforcement of Intellectual Property Rights in Third Countries’ 15.182
- ‘Trade Growth and World Affairs’ policy 15.182
- ‘TRIPS plus’ protection standards 15.185
- piracy, policies and actions in fight against, third countries, EU’s foreign policies on IPR enforcement, assessment of 15.266–9
- data analysis development 15.268
- effective implementation, factors affecting 15.266
- EU Observatory on IPR Infringements as single point of contact 15.268
- IP Dialogues, promotion of 15.268, 15.269
- recommendations 15.268
- stakeholder involvement, importance of 15.268, 15.269
- technical cooperation projects 15.267, 15.268, 15.269
- piracy, policies and actions in fight against, third countries, legislative actions 15.185, 15.187–240
- European Free Trade Association (EFTA) and enforcement of intellectual property rights 15.188–9
- piracy, policies and actions in fight against, third countries, legislative actions, Anti-Counterfeiting Trade Agreement (ACTA) 15.175, 15.190–234, 15.261
- acquis* compatibility concerns 15.198–204, 15.233, 15.234
- border measures section (Article 13) 15.219–20
- business community cooperation (Article 27) 15.228–9
- civil enforcement section 15.217–18
- CJEU referral on compatibility 15.206, 15.208, 15.209
- commercial-scale infringements, understanding of 15.222–3
- contradictory stances on impact of 15.234
- criminal enforcement section 15.222
- criminal measures for the unauthorised copying of cinematographic works (camcording) (Article 23) 15.224
- digital chapter and three-strikes policy 15.226, 15.228
- Doha Declaration principles 15.220
- EU negotiations 15.190–210
- failure to comply with several key provisions of ECHR and EU Charter of Fundamental Rights 15.203, 15.204
- information disclosure to right holder (Article 27) 15.229
- institutional framework section 15.232
- INTA Study 15.201, 15.204, 15.208
- international cooperation section 15.231
- internet users petition against 15.207

- IPRED comparison 15.214–17
 ISPs, limited liability 15.227
 lack of ratification 15.205, 15.209–10,
 15.240
 legal opinions on compatibility 15.204
 nature and scope 15.211–34
 neutrality on substantive protection of
 IPRs (Article 3) 15.213, 15.225,
 15.230
 ‘Opinion of European Academics on
 Anti-Counterfeiting Trade
 Agreement’ 15.200
 protection of undisclosed information
 15.215
 stakeholders’ associations support for
 15.207
 transparency, lack of, in negotiations
 15.195
 TRIPS concerns 15.196, 15.204, 15.212,
 15.220, 15.223
 piracy, policies and actions in fight against,
 third countries, legislative actions,
 bilateral agreements 15.235–40
 Economic Partnership Agreements
 (EPAs) 15.236
 EU approach to FTAs 15.235–9
 EU–Canada Comprehensive Economic
 and Trade Agreement (CETA)
 15.240
 ‘Global Europe – Competing in the
 World’ 15.235, 15.237
 Partnership and Cooperation Agreements
 (PCAs) 15.236
 ‘Protection of Intellectual Property in Free
 Trade Agreements’ 15.238
 ‘TRIPS Agreement, most-favoured-nation
 (MFN) clause 15.239
 ‘TRIPS-plus’ protection standards 15.137,
 15.238–9
 unbalanced IPR provisions, accusations of
 15.238
 piracy, policies and actions in fight against,
 third countries, non-legislative actions
 15.241–6
 Customs cooperation 15.242
 EU–China talks on IPRs 15.242
 EU–US IPR Working Group 15.243
 Group of Eight (G8), and
 Anti-Counterfeiting Trade
 Agreement (ACTA) 15.261
 Group of Eight (G8), ‘Heiligendamm
 Process’ 15.261
 Group of Eight (G8) participation
 15.260–62
 Group of Eight (G8), ‘Reducing IPR
 Counterfeiting and Piracy’ statement
 15.261
 Group of Twenty (G20) participation
 15.263–4
 Group of Twenty (G20), World
 Intellectual Property Litigation Court
 15.264
 Intellectual Property Dialogues 15.241–4
 International Criminal Police
 Organisation (Interpol) participation
 with Europol 15.259
 international fora participation 15.247–65
 technical cooperation 15.245–6
 technical cooperation, end-user initiatives
 15.246
 United Nations Interregional Crime and
 Justice Research Institute (UNICRI)
 participation 15.265
 World Customs Organisation (WCO)
 participation 15.256–8
 World Customs Organisation (WCO)
 participation, public–private
 partnership 15.257
 World Trade Organisation (WTO)
 participation 15.247
 piracy, policies and actions in fight against,
 third countries, non-legislative actions,
 WIPO participation 15.248–55
 Advisory Committee on Enforcement
 (ACE) 15.249–50, 15.252, 15.254–5
 ‘Building Respect for IP’ division 15.252
 ‘Global Congress on Combating
 Counterfeiting and Piracy’ 15.253
 scope and activities 15.251–2
 Strategic Goals 15.254
 Poland
 collective rights and obligation to contract
 with users 14.59
 resale right 10.02

- resale right, collective rights management 10.56
- resale right transposition 10.20
- policial cooperation, piracy policies *see* piracy, policies and actions in fight against, intellectual property crime, policial and judicial cooperation
- political difficulties of copyright reform, Digital Agenda initiative 17.25–7
- Portugal
- rental right as exclusive right 6.14
 - resale right transposition 10.20
- posthumous works *see* death of author
- principal director of cinematographic work as author 6.41–2, 8.20
- print works, Orphan Works Directive (Article 1) 13.11–12, 13.62
- privacy protection
- copyright protection and privacy, conflict between, IPRED (Article 8) 12.125
 - and the freedom of expression, piracy policies 15.142–3
 - private rights and public interest balance, piracy policies 15.282
 - private use limitations, Information Society Directive, Technical Protection Measures (TPMs) 11.101
 - private use, Rental and Lending Rights Directive (Article 2) 6.26, 20.44
 - see also* confidentiality protection; personal data protection
- private copying *see* reproductions
- private sale exemption, Resale Right Directive (Article 1) 10.26, 10.29
- private sector partnership
- piracy policies 15.114
 - public-private partnerships 13.52, 15.257, 16.68, 16.120
- producers
- co-production agreements, Satellite and Cable Directive (Article 7) 7.60–62
 - performers and producers of phonograms, specific rules, Term Directive (Article 3) 8.32–9
 - remuneration shared between performers and producers, Rental and Lending Rights Directive (Article 8) 6.94
 - see also* performers
- Product Piracy Regulation
- border measures 12.05
 - effective, proportionate and dissuasive measures (Article 18) 12.25
 - sanctions and remedies (Article 18) 11.143, 11.146
 - seizure of goods 12.140
 - see also* piracy
- property right, Information Society Directive 11.104
- property transfer in Continental Europe 21.36
- proportionality principle
- and ‘appropriateness’, IPRED (Article 11) 12.165, 15.44
 - corrective measures, IPRED (Article 10) 12.155
 - corrective measures test, IPRED (Article 12) 12.174
 - effective, proportionate and dissuasive measures, IPRED (Article 3) 12.25, 12.61, 12.62, 15.39, 15.156
 - evidence preservation, IPRED (Article 7) 12.87
 - legal costs, IPRED (Article 14) 12.195
 - right of information, IPRED (Article 8) 12.124
- protective rules in Continental Europe 21.35–40
- public
- availability, cultural heritage 16.47, 16.50–61, 16.69–71, 16.112–14
 - awareness campaigns, piracy policies 15.27, 15.94, 15.107, 15.132, 15.133, 15.135, 15.582
 - communication to *see* communication to the public
 - distribution rights, Software Directive (Article 4) 5.73
 - document access, Database Directive 9.71
 - interest, Orphan Works Directive 13.09, 13.51, 13.53, 13.54
 - lending right *see* Rental and Lending Rights Directive
 - performance 11.18, 20.23

- policy/*ordre public* emergency clause, Rome I Regulation 18.62–3
 register, Orphan Works Directive (Article 3) 13.39–46
 right of communication to *see*
 communication to the public
 sector databases 9.34
 security 9.64, 20.40–41, 20.42
 service broadcasters 13.08
 public–private partnerships 13.52, 15.100, 15.257, 16.68, 16.120
 public–service value of Internet 15.165
 publication delays, Term Directive (Directive 93/98), duration of authors’ rights (Article 1) 8.17
 publication of judicial decisions, IPRED *see* Enforcement of Intellectual Property Rights Directive (IPRED) (2004/48), publication of judicial decisions (Article 15)
 ‘publicly accessible’ institutions as beneficiaries, Orphan Works Directive (Article 1) 13.05–7
 ‘publicly accessible’, meaning of (Article 5), Copyright Directive 13.06
 publicly funded (non-profit) interests, cultural heritage, digitisation and copyright law, legal challenges 16.110–11
 publishers and publishing
 country of origin definition 2.08
 e-book development, Rental and Lending Rights Directive (Article 3) 6.48
 exclusive authors’ rights publishing contracts, Rental and Lending Rights Directive (Article 5) 6.61
 multi-volume publications, Term Directive 8.18
 transfer of rights, Collective Rights Management Directive (Article 3) 14.18, 14.39
 unpublished works *see* unpublished works

 quotations, exceptions for 20.40–41

 re-utilisation rights, Database Directive (Article 7) 9.43, 9.45–6, 11.25

 recall of goods from channels of commerce, IPRED (Article 10) 12.158, 15.45, 15.55
 reciprocal agreements
 Collective Rights Management Directive (Article 14) 14.51, 14.52–3
 third country protection and treatment of aliens, Term Directive 8.48
 refusal to supply, essential facilities principle 4.22, 4.29–37, 4.56–7
 related rights
 duration, Information Society Directive 8.29
 duration, Rental and Lending Rights Directive (Article 12) 8.26, 11.180
 Satellite and Cable Directive, rights of performers, phonogram producers and broadcasting organisations 7.45–7
 Term Directive *see* Term Directive, duration of related rights (Article 3)
 remedies *see* sanctions and remedies
 remuneration
 claims, Information Society Directive 11.92
 and distribution right, Information Society Directive 11.95
 equitable, Rental and Lending Rights Directive (Article 8) 6.89–93
 Information Society Directive *see* Information Society Directive, exceptions and limitations (Articles 5 and 6.4), fair compensation, remuneration and collective management link
 public lending, Rental and Lending Rights Directive (Article 3) 6.47
 restrictions, EU Copyright Law, working towards 21.11
 right, Resale Right Directive 10.05, 10.25
 Satellite and Cable Directive (Article 3) 7.39, 7.54
 supplementary right, Term Directive (Article 3) 8.38

- unwaivable rental right *see* Rental and Lending Rights Directive, unwaivable rental right to equitable remuneration (Article 5)
- Rental and Lending Rights Directive (Directive 2006/115 (formerly 92/100)) 6.01–105, 11.123
- application in time (Article 11) 6.103
- CJEU role in EU Copyright law development, exceptions and limitations 20.44, 20.48
- computer program rental (Article 4) 6.55–7
- copyright protection terms (Articles 11 and 12) 8.68
- copyright, rights related to (Article 6) 6.73–4
- databases 9.10, 9.23
- harmonisation goals 6.02–3, 6.08
- limitations to rights (Article 10) 6.101–2
- related rights duration (Article 12) 8.26, 11.180
- related rights duration, phonograms and broadcasting organisations (Article 14) 8.26
- relation between copyright and related rights (Article 12) 6.104
- repeal (Article 14) 6.105
- tangible products restriction 6.08
- Rental and Lending Rights Directive (Directive 2006/115 (formerly 92/100)), broadcasting and communication to the public (Article 8) 6.81–96, 7.48, 20.24
- beneficiaries 6.94–6
- beneficiaries, preventive right 6.96
- beneficiaries, remuneration shared between performers and producers 6.94
- beneficiaries, transferability right 6.95, 7.49–50
- cable retransmissions, exclusion of 6.83
- compensatory nature 6.85
- cross-frontier communications and territoriality principle 6.92
- equitable remuneration 6.89–93
- hotels rooms 6.87–8, 6.93
- protected performance of performer in context of neighbouring rights 6.82
- ‘public’ concept 6.87, 6.102
- Rental and Lending Rights Directive (Directive 2006/115 (formerly 92/100)), definitions (Article 2) 6.23–42
- authors, performers and producers 6.38–40, 7.33, 7.36, 7.45–7, 7.55–7, 8.20, 11.175–7
- direct or indirect economic or commercial advantage 6.31–2
- establishments accessible to the public 6.33–4
- film 6.35–7
- making available for a limited period of time 6.25–30
- ‘on-the-spot’ use, exclusion of 6.27
- principal director authorship 6.41–2
- regulatory requirements 6.29–30
- rental outlet development issues 6.28
- transfer of ownership 11.47
- undefined concepts 6.38–40
- ‘use’ as ‘private use’ 6.26, 20.44
- Rental and Lending Rights Directive (Directive 2006/115 (formerly 92/100)), derogation from exclusive lending right (Article 6) 6.65–72, 20.22
- cultural promotion objectives 6.68–70
- derogation regarding beneficiaries of the right to remuneration 6.67, 6.72, 14.12
- exemption of certain categories of establishments 6.71–2
- Rental and Lending Rights Directive (Directive 2006/115 (formerly 92/100)), distribution right (Article 9) 6.97–100, 11.37
- film producers 6.100
- first sale coverage 6.97
- neighbouring rights transferability 6.99
- Rental and Lending Rights Directive (Directive 2006/115 (formerly 92/100)), fixation right (Article 7) 6.75–80
- broadcasting organisations 6.79–80
- cable operators, exclusion of 6.80

- Information Society Directive relationship 11.03
 performers 6.76–8
 reproduction rights 11.04
- Rental and Lending Rights Directive (Directive 2006/115 (formerly 92/100)), object of harmonisation (Article 1) 6.09–22
 exclusive rights 6.10–17
 exclusive rights, *droit de destination* theory 6.16–17
 exhaustion of distribution right 6.21–2
 originals and copies 6.18–20
 prohibition option and timely distribution of works 6.12
- Rental and Lending Rights Directive (Directive 2006/115 (formerly 92/100)), rightholders and subject matter (Article 3) 6.43–54
 audiovisual works 6.44–6
 beneficiaries 6.44–7
 derogation for buildings and works of applied art 6.49
 e-book development 6.48
 film producer, presumptions in favour 6.51–4
 public lending right 5.71, 6.47
 subject matter 6.48–54
 transferability of exclusive right 6.50, 6.78
 video-on-demand systems 6.48
- Rental and Lending Rights Directive (Directive 2006/115 (formerly 92/100)), unwaivable rental right to equitable remuneration (Article 5) 6.58–64, 20.48
 book publishers and exclusive authors' rights publishing contracts 6.61
 collective management 6.64
 sound and video recordings 6.62–3
- rental rights
 Copyright Directive (Directive 2001/29) 5.68
 Information Society Directive 6.08, 6.22, 6.27
 public lending, Database Directive (Article 2) 9.10
 Software Directive (Article 4) 5.67–70
- representation agreements, Collective Rights Management Directive *see* Collective Rights Management Directive,
 deductions and payments in representation agreements (Article 14)
- reproductions
 altered works, Information Society Directive (Article 19) 11.139
 CJEU role in EU Copyright law development 20.15–16
 Copyright Directive (Article 2) 5.60, 5.62, 6.74, 6.76, 13.50
 cultural heritage, digitisation and copyright law 16.65, 16.67
 Database Directive 9.21, 9.62, 11.10
 Information Society Directive *see* Information Society Directive (Directive 2001/29), reproduction right (Article 2)
 Orphan Works Directive 13.50, 16.86–7
 private copying 9.62, 11.105
 private copying levies *see* EU Copyright Law, working towards, exceptions' flexibility and harmonisation of private copying levies
 Rental and Lending Rights Directive 6.18–20, 11.04
 Software Directive (Articles 4–6) 11.10
 temporary acts, Information Society Directive, Technical Protection Measures (TPMs) 20.34–9
 transient copies *see* transient copies
- resale right, exhaustion of intellectual property rights, free movement of goods principle 3.01–2
- Resale Right Directive (Directive 2001/84) 6.18, 10.01–98
 application in time (Article 10) 10.87
 cultural policy weaknesses 10.10
 entry into force (Article 13) 10.97–8
 Explanatory Memorandum 10.12, 10.14
 genesis period 10.15
 harmonisation and EU competence, need for 10.08–9, 10.11–12, 10.31
 implementation (Article 12) 10.17–23, 10.94–6

- and internal market competitiveness
10.08–9
- international regulation 10.06–7
- minimum sale price threshold and
royalties (Article 3) 10.33–5
- original manuscripts, exclusion of 10.31
- origins (*droit de suite*) 10.01–4
- remuneration right 10.05
- right to obtain information (Article 9)
10.85–6
- sale calculation basis (Article 5) 10.43
- term of protection (Article 8) 10.75–84
- third-country nationals entitled to receive
royalties (Article 7) 10.58–74
- transitional period for some countries
10.18
- Resale Right Directive (Directive 2001/84),
persons entitled to receive royalties
(Article 6) 10.44–57
- collective rights management 10.52–7
- collective rights management, collecting
societies 10.53
- collective rights management, reciprocal
rights agreements 10.57
- national laws of succession and post
mortem rights 10.49–50
- post mortem restrictions 10.46–51
- post mortem restrictions, lack of legal
heirs 10.51
- post mortem restrictions, term of
protection 10.51
- Resale Right Directive (Directive 2001/84),
revision clause (Article 11) 10.88–93
- local artists, encouragement of proactive
support 10.93
- market share fears 10.91–3
- stakeholder dialogue proposal 10.90
- Resale Right Directive (Directive 2001/84),
royalty rates 10.36–42
- cap 10.38–9, 10.42
- criticism of tapering scale 10.41
- national rates prior to Directive 10.40
- sale price manipulation concerns 10.41
- Resale Right Directive (Directive 2001/84),
scope (Article 1) 10.24–9
- acquisition time limits 10.27, 10.29
- art galleries acquiring works directly from
the author 10.29
- price restriction 10.27, 10.29
- private sale exemption 10.26, 10.29
- remuneration right 10.25
- royalty payments 10.28
- Resale Right Directive (Directive 2001/84),
works of art to which resale right
relates (Article 2) 10.30–32
- numbered copies 10.32
- original manuscripts, exclusion of 10.31
- restricted acts
- Database Directive *see* Database Directive,
restricted acts (Article 5)
- Information Society Directive (Article 5)
9.28–9, 9.63, 16.68, 16.70
- Software Directive *see* Software Directive,
restricted acts (Article 4)
- Reuse of Public Sector Information
Directive, Digital Agenda initiative,
digital single market 17.13
- reverse engineering (decompilation),
Software Directive *see* Software
Directive, decompilation (reverse
engineering), exception conditions
- rightholders
- application forms to request border
measures, piracy policies 15.72
- cinematographic works, CJEU role in EU
Copyright law development 20.27–8,
20.48
- cultural heritage, digitisation and
copyright law 16.66–7, 16.78–82
- distribution, Collective Rights
Management Directive *see* Collective
Rights Management Directive,
distribution of amounts due to
rightholders (Article 12)
- Information Society Directive 11.53–7
- IPRED 11.57, 12.130
- Rental and Lending Rights Directive *see*
Rental and Lending Rights Directive,
rightholders and subject matter
(Article 3)
- Satellite and Cable Directive 7.63–6
- Software Directive 5.78
- see also* transfer of ownership; users

- rights management information obligations,
 Information Society Directive *see*
 Information Society Directive
 (Directive 2001/29), rights
 management information obligations
 (DRMs) (Article 19)
- Romania, resale right transposition 10.19
- Rome Convention
 broadcasting organisations' protection
 19.20–21
 compulsory licenses (Article 15) 7.47
 copyright and related rights, relation
 between (Article 1) 7.51
 equitable remuneration (Article 12) 6.89
 IPRs and piracy 15.08
 national treatment principle 2.08, 2.09,
 6.77
 performance fixation (Article 3) 8.34
 related rights protection (Article 1) 11.180
 transfer of rights (Article 19) 19.15
- Rome I Regulation, intellectual property *see*
 intellectual property and EU rules on
 private international law, legal choices,
 Rome I Regulation
- Rome II Regulation, intellectual property *see*
 intellectual property and EU rules on
 private international law, legal choices,
 Rome II Regulation
- Rosén, Jan 7.01–88
- royalties
 IPRED (Article 13) 12.186, 12.187–8
 Resale Right Directive *see* Resale Right
 Directive, persons entitled to receive
 royalties (Article 6)
- Rupp, Hajo 16.01–121
- 'Saas' models (Software as a Service) licences
 5.89
- 'sale or transfer of ownership' and exhaustion
 of rights, Information Society Directive
 11.50
- sampling, IPRED 12.66, 12.67–8, 12.85
- sanctions and remedies
 Collective Rights Management Directive
 14.78
 Database Directive 9.70, 11.143
 Information Society Directive *see*
 Information Society Directive,
 sanctions and remedies (Article 8)
 IPRED 12.19, 12.20–21, 12.61, 12.92–3,
 12.205–7
 Software Directive 11.143
 see also criminal enforcement; damages
- Sappa, Cristiana 2.01–20
- Satellite and Cable Directive (Directive
 93/83) 1.24, 7.01–88
 broadcasting right in country of origin
 (Article 2) 7.34–6
 broadcasting to the public (Article 4)
 11.13, 20.23
 collecting society definition 14.16
 collective administration of rights, national
 rules unaffected (Article 13) 7.83–4
 copyright and related rights, relation
 between 7.51
 country-of-origin principle 7.87
 final provisions (Article 14) 7.85–7
 final provisions (Article 14),
 implementation deadline and duty of
 notification 7.85
 Information Society Directive relationship
 11.03
 mediators (Article 11) 7.76–8
 right of communication to the public
 11.16
 territorial market fragmentation 7.86
 see also Rental and Lending Rights
 Directive, broadcasting and
 communication to the public (Article
 8)
- Satellite and Cable Directive (Directive
 93/83), acquisition of broadcasting
 rights (Article 3) 7.37–44
 acquisition by contract 7.37–9
 cinematographic works 7.43
 collective licensing 7.40–42
 duty to inform 7.44
 extended collective licensing 7.41–2
 remuneration issues 7.39
- Satellite and Cable Directive (Directive
 93/83), cable retransmission right
 (Article 8) 7.63–7

- collecting societies 7.64
- national laws 7.65–6
- rights acquisition 7.63–6
- transitional provisions 7.67
- Satellite and Cable Directive (Directive 93/83), cable retransmission right by broadcasting organizations (Article 10) 7.74–5
- collecting society influence 7.75
- mandatory exception 7.74–5
- outsider rights 7.75
- Satellite and Cable Directive (Directive 93/83), cable retransmission right, exercise of (Article 9) 7.68–73
- collecting societies 7.68, 7.71–2, 21.43
- film licensing 7.69
- mandatory collective rights management 7.68–70
- outsiders, treatment of 7.71–2
- revenue issues 7.71–2
- statutory presumptions 7.73
- transferable rights 7.70
- Satellite and Cable Directive (Directive 93/83), definitions (Article 1) 7.01–33
- authors of audiovisual works 7.33, 7.36, 8.20
- broadcaster 7.12, 7.25
- cable retransmission 7.26–30
- cable retransmission, communication to the public 7.29
- cable retransmission, initial transmission 7.27–9
- cablecasting 7.28
- collecting society 7.31–2
- collective management 6.64
- communication to the public 7.08, 7.09–15, 7.19–20, 7.29
- communication to the public in one Member state (country of origin rule) 7.16–18, 7.20, 7.34–6, 7.45
- communication to the public, satellite broadcasts from outside the EU 7.24–5
- harmonisation 7.03, 7.05
- licensing from rights holders 7.17–18
- retransmission considerations 7.11–12, 7.27–9
- satellite 7.06–8
- signal encryption 7.19–23, 7.29
- Satellite and Cable Directive (Directive 93/83), minimum protection (Article 6) 7.52–4
- minimum harmonisation 7.52
- remuneration issues 7.54
- up-link country focus 7.53
- Satellite and Cable Directive (Directive 93/83), prevention of abuse of negotiating positions (Article 12) 7.79–82
- competition law, ineffectiveness of 7.80
- negotiation obligation 7.79
- transitional provisions 7.82
- Satellite and Cable Directive (Directive 93/83), rights of performers, phonogram producers and broadcasting organisations 7.45–50
- country-of-origin principle 7.45
- presumption of transfer 7.49–50
- related rights 7.45–7
- wireless broadcasting 7.48
- Satellite and Cable Directive (Directive 93/83), transitional provisions (Article 7) 7.55–62
- application in time 7.55–7
- co-production agreements 7.60–62
- film exploitation agreements 7.59
- old broadcasting licence contracts 7.58–9
- territorial copyrights 7.62
- Satellites Convention protection of broadcasting organisations 19.20–21
- Scandinavia
- cable retransmission 21.43
- collective licensing 21.40–44
- see also* individual countries
- Schönherr, Franciska 11.62–106
- scientific publications 8.42–3
- seizure of goods 5.137–8, 12.140–42
- see also* destruction of goods
- self-incrimination prohibition, IPRED 12.115
- shared database identifiers, Orphan Works Directive (Article 3) 13.44–5
- signal encryption, Satellite and Cable Directive 7.19–23, 7.29

- ‘situatedness’, cultural heritage, digitisation and copyright law, legal challenges 16.105
- SMEs, consideration of specific problems of, piracy policies 15.26
- Software Directive (Directive 2009/24) 5.01–138
- acquis communautaire* 5.03
 - addressees (Article 12) 5.146–7
 - beneficiaries of protection (Article 3) 5.55
 - CJEU role in EU Copyright law development 20.49–51
 - code availability 4.56
 - communication (Article 9) 5.142–3
 - continued application or other legal provisions (Article 8) 5.139–41
 - continued application or other legal provisions (Article 8), mandatory character of the exceptions 5.141
 - continued application or other legal provisions (Article 8), without prejudice clause 5.139–40
 - convergence of content formats, transmission media and platforms 5.03
 - copyright and related rights legislation (Article 7) 12.16
 - counterfeiting and piracy problems 12.02
 - distribution right (Article 4) 11.37, 11.39, 11.43, 11.47
 - duration of authors’ rights (Article 1) 8.01
 - entry into force (Article 11) 5.144–5
 - error correction, CJEU role in EU Copyright law development 20.51
 - harmonization, enhanced but still inconsistent 5.02–3
 - Information Society Directive relationship 11.03
 - lawful user concept 9.27, 9.56, 9.57
 - lex specialis* character 5.04, 5.86, 5.91
 - originality conditions (Article 1) 8.47
 - preparatory documents 5.01
 - preparatory documents, computer program concept 5.06
 - reproduction right (Articles 4–6) 11.10
 - sanctions and remedies (Article 7) 11.143
 - technical protection measures 11.108
 - term of protection (Article 8) 8.67
 - testing functioning of program, CJEU role in EU Copyright law development 20.49–50
 - transfer of ownership (Article 4) 11.47
 - transient copying limitation 5.03
 - see also* computer programs; Database Directive
- Software Directive (Directive 2009/24),
- authorship of computer programs (Article 2) 5.40–54
 - collective works 5.43, 9.18–19
 - computer programs created by employees 5.47–54
 - computer programs created by employees, economic rights transfer mechanism 5.47–9
 - computer programs created by employees, moral rights not transferred to employer 5.53–4
 - computer programs created by employees, normal duties or specific instructions, determination of 5.50–52
 - initial ownership 5.40–43
 - joint ownership 5.44–6
- Software Directive (Directive 2009/24),
- decompilation (reverse engineering), exception conditions (Article 6) 5.110–27
 - acts performed by a licensee or other legitimate user 5.117
 - decompilation of necessary parts only 5.120
 - information not obtained for other purposes 5.121–4
 - interoperability aim 5.114
 - interoperability aim, independently created program 5.116
 - interoperability aim, indispensable and necessary acts 5.115
 - limited acts of reproduction 5.113
 - necessary information is not readily available 5.118–19
 - three-step test 5.125–7
- Software Directive (Directive 2009/24),
- object of protection (Article 1) 5.05–39
 - algorithms, lack of protection 5.27

- any form of expression of a computer program 5.16–17
- computer program concept 5.05–6
- computer program definition, lack of 5.05
- computer programs are literary works within the meaning of the Berne Convention 5.07–12
- computer programs, functional nature 5.14
- data files' format and programming languages 5.28–30
- expression protection, not ideas 5.13–30
- graphic user interfaces, lack of protection 5.24–6
- idea/expression dichotomy application 5.13–15
- idea/expression dichotomy application, merger doctrine 5.15
- interfaces, lack of protection 5.23
- originality condition 5.31–7
- originality condition, computer program elements application 5.36–7
- originality condition, unified test to assess originality, problems with 5.33–5
- particular elements of computer program 5.18–30
- preparatory design material 5.21–2
- source and object code 5.18
- transitional provision 5.38–9
- user manual and other users' documentation, lack of protection 5.19–20
- Software Directive (Directive 2009/24), restricted acts (Article 4) 5.56–93, 9.20
- communication to the public rights 5.90–91
- distribution rights 5.72–89
- distribution rights, distribution 'to the public' 5.73
- exclusive rights 5.56–7
- moral rights, lack of regulation 5.92–3
- public lending right exclusion 5.71
- rental right 5.67–70
- rental right, rental and sale, distinction between 5.70
- reproduction by any means and in any form 5.58–62, 5.100
- reproduction by any means and in any form, permanent or temporary 5.59–60
- reproduction right 5.58–89
- source code reproduction 5.62
- translations, adaptations alterations 5.63–6
- Software Directive (Directive 2009/24), restricted acts (Article 4), Community exhaustion rule 5.74–89, 20.19–21
- 'first sale' reference 5.80–89
- intangible copies of computer programs 5.84–9
- rightholder consent 5.78
- 'Saas' models (Software as a Service) licences 5.89
- and sales 5.77
- updates and upgrades of software 5.87
- Software Directive (Directive 2009/24), restricted acts exceptions (Article 5) 5.94–109
- acts necessary for normal use and error correction 5.99–104, 20.51
- back-up copies 5.105–6
- exhaustive character, restrictive interpretation 5.94–5
- 'lawful acquirer' or 'person having a right to use' 5.96–8
- program function, studying and testing (black-box testing) 5.107–9, 20.49–50
- Software Directive (Directive 2009/24), special measures of protection (Article 7) 5.128–38
- possession for commercial purposes 5.133
- protection for technological protection measures 5.134–6
- putting into circulation 5.130–32
- remedies 9.70
- seizure provisions 5.137–8
- sound recordings 3.07, 6.62–3
- see also* cinematographic and audiovisual works
- source codes
- availability, Software Directive 4.56
- protection, TRIPs Agreement 5.18
- refusal to supply, essential facilities principle 4.56–7

- reproduction, Software Directive 5.62
- see also* computer programs
- South Korea, 'graduated response' to Internet blocking 15.127
- Spain
 - blocking Internet access at request of right holder or of law enforcement agencies 15.127
 - collective rights and obligation to contract with users 14.59
 - collective work category 1.15
 - damage awards calculations 15.50
 - data creation and collection, distinction between 9.39
 - duration of authors' rights 8.01
 - ISP liability 11.155
 - rental right as exclusive right 6.14
 - resale right, collective rights management 10.56
 - resale right transposition 10.21–2
 - Ryanair v Atrapalo* 9.39, 9.74
 - sui generis* right 9.39, 9.74
- 'special jurisdiction' rule, piracy policies, Brussels I Regulation 15.58, 15.59
- sport
 - football matches, filming and broadcasting 21.15–19
 - originality/creativity standard, CJEU role in EU Copyright law development 20.11
- stakeholder dialogues
 - Digital Agenda initiative 17.15–16, 17.18
 - piracy policies 15.89, 15.178–80, 15.207, 15.268, 15.269
 - Resale Right Directive 10.90
- Stamatoudi, Irini 0.01–11, 11.01–185, 12.01–218
- Strowel, Alain 21.01–69
- subsidiarity principle 1.09
 - Collective Rights Management Directive 14.07, 14.77
- sui generis* right
 - application over other legal provisions, Database Directive 9.71
 - application over time, Database Directive (Article 14) 9.75, 9.77
- beneficiaries of protection, Database Directive (Article 11) 9.68–9
- cultural heritage, public domain (re-)privatisation 16.60
- exceptions, database Directive *see* Database Directive, *sui generis* rights, exceptions (Article 9)
- IPRED 11.110, 15.36
- lawful users, Database Directive (Article 8) 9.58, 9.59
- object of protection, Database Directive *see* Database Directive, object of protection, *sui generis* right
- restricted acts, Database Directive (Article 6) 9.27–8
- scope limitations, Database Directive (Article 2) 9.09
- term of protection, Database Directive (Article 10) 9.65
- Suthersanen, Uma 13.01–62
- Sweden
 - doctrine of implied licence 11.91
 - Internet access blocking 15.127
 - ISP liability 11.155
 - resale right transposition 10.20
 - Svensson and Others* 11.91
- Switzerland, Private International Law Act 18.76
- Taiwan, 'graduated response' to Internet blocking 15.127
- teaching *see* education sector
- technical issues
 - access barriers, cultural heritage, public domain (re-)privatisation 16.61
 - adaptations, Copyright and Neighbouring Rights Directive 8.67–8
 - adaptations, Information Society Directive (Article 11) 11.175–8
 - cooperation projects, piracy policies 15.104, 15.245–6, 15.267, 15.268, 15.269
 - development 1.21
 - development assurance, Information Society Directive 11.84
 - digital technology protection, piracy policies 15.04

- innovation 1.07, 16.15–16
- Internet viewing of copyright material,
Information Society Directive 11.76
- obsolescence concerns, cultural heritage
preservation 16.20
- protection measures, IPRED (Article 2)
12.16
- protection measures, Orphan Works
Directive 13.58
- protection measures, Software Directive
5.134–6
- Software Directive 11.108
- standard-setting, essential facilities
principle 4.28
- Technical Protection Measures (TPMs),
Information Society Directive *see*
Information Society Directive,
exceptions and limitations, Technical
Protection Measures (TPMs)
- ‘technological measures’ definition,
Copyright Directive (Article 6) 5.135
- technological measures obligations,
Information Society Directive *see*
Information Society Directive,
technological measures obligations
(Article 6)
- Technology Transfer Block Exemption
Regulation (TTBER) 4.33, 21.21
- technology-enabled uses, EU Copyright
Law, working towards 21.50–58,
21.59
- WIPO consultations 19.29
- Telecom Package, ‘three-strikes’ solution
rejection 15.138
- Television without Frontiers Directive 7.02
see also broadcasting
- temporary acts of reproduction
mandatory exception, Information Society
Directive, Technical Protection
Measures (TPMs) 20.34–9
see also reproductions
- Term Directive (Directive 93/98) 8.01–72
addressees (Article 14 of Directive
2006/116 and Article 5 of Directive
2011/77/EU) 8.72
authors of audiovisual works, (Article 2)
7.33
calculation of terms (Article 8) 8.52–3
critical and scientific publications (Article
5) 8.42–3
entry into force considerations 8.70–71
moral rights (Article 9) 8.54
national transitional measures (Article
10A) 8.63–4
notification and communication (Article
11) 8.65–6
protection of photographs (Article 6)
8.44–7
protection of photographs (Article 6),
originality conditions 8.46–7
protection of previously unpublished
works (Article 4) 8.40–41
third country protection and treatment of
aliens (Article 7) 8.48–51
third country protection and treatment of
aliens (Article 7), national treatment
principle 8.49
third country protection and treatment of
aliens (Article 7), reciprocity
treatment 8.48
- Term Directive (Directive 93/98),
application in time (Article 10)
8.55–62, 8.65
- Copyright and Neighbouring Rights
Directive modifications 8.61–2
- longer terms of protection already running
8.55
- protection in at least one Member State
8.56
- retroactive action not applicable 8.59
- third parties’ acquired rights and principle
of legitimate expectations 8.60
- Term Directive (Directive 93/98),
cinematographic or audiovisual works
(Article 2) 8.19–25
authorship 8.19–21
death of composer of music 8.24
harmonisation need 8.19
principal director as author 8.20
protection term calculation 8.22–5
relevant persons involved in the creative
process 8.20, 8.22–3
underlying works, lack of coverage 8.25

- Term Directive (Directive 93/98), duration
of authors' rights (Article 1) 8.01–18
anonymous works and date of the author's
death rule 8.15
duration details 8.09
harmonisation, lack of 8.01–3, 8.06–7,
8.16
initial ownership, lack of harmonisation
and national legislation 8.16
international influence 8.10
joint authorship 8.13–14
literary or artistic work definition 8.11
multi-volume publications 8.18
neighbouring rights 8.02
posthumous works 8.12
publication delays 8.17
- Term Directive (Directive 93/98), duration
of related rights (Article 3) 8.26–39,
8.65
broadcasting organisations 8.30
'clean slate' provision 8.39
contract termination rights 8.37
Copyright and Neighbouring Rights
Directive, amendments introduced by
8.32–9, 8.63–4
date of performance 8.28
film performance fixation 8.35
film producers, special rule for longer
protection 8.29
general rules 8.26–31
granting of further related rights to other
persons 8.31
Information Society Directive relationship
11.03
performance fixation 8.33
performers and producers of phonograms,
specific rules 8.32–9
phonogram, understanding of 8.34
supplementary remuneration right 8.38
- term of protection
CJEU role in EU Copyright law
development 20.29–30
Database Directive *see* Database Directive,
term of protection (Article 10)
Design Directive 20.29
irrespective of home country, EC Treaty
8.57
Resale Right Directive 10.75–84
Software Directive 8.67
- territoriality
Collective Rights Management Directive
(Article 20) 14.63
EC Treaty 1.05, 1.24
EU Copyright Law *see* EU Copyright
Law, working towards, territoriality
issues
and free movement of goods and services
1.05, 1.24
non-discrimination principle 2.07
parallel IP rights and damage occurring in
several jurisdictions 18.02, 18.07,
18.19
Rental and Lending Rights Directive
(Article 8) 6.92
Satellite and Cable Directive 7.62, 7.86
see also cross-border measures; individual
countries; national laws
- TFEU (Treaty on the Functioning of the
European Union)
broadcasting signal encryption (Article 56)
7.22–3
collecting societies (Article 12) 12.40
collective management of copyright and
related rights (Articles 50, 53 and 60)
14.06
competition rules (Articles 101 and 102)
14.11, 14.29, 14.30, 14.51, 14.72
counterfeiting and piracy problems
(Article 14) 12.02
criminal cases and adoption of minimum
rules (Article 83) 15.85
cultural diversity considerations (Article
107) 14.68
cultural policy incentives (Article 167)
10.10, 14.06
dominance abuse (Article 102) 2.15
dominance abuse, limiting production or
technical development, and refusal to
supply (Article 101) 4.28

- essential facilities principle (Article 102)
see under essential facilities principle,
 TFEU Article 102
- exhaustion of distribution rights and free
 movement of good (Article 28)
 11.48, 11.58
- free movement of goods and services
 (Articles 34 and 56) 3.10, 21.47
- freedom, security and justice as shared
 competence (Article 4) 15.85
- fundamental rights (Article 6) 15.142
- industrial and commercial property
 rights as exceptions to free circulation
 of goods and services (Article 36)
 2.12
- internal market functionality (Articles 26
 and 114) 10.09
- international agreements, binding nature
 of (Article 216) 11.71
- Member States' choices of forms and
 methods (Article 288) 11.64,
 11.74
- national treatment principle 2.11, 2.12
- new product requirement (Article 102)
 4.59
- non-discrimination principle (Article 18)
 2.12, 2.14, 2.15, 2.20, 10.07,
 14.29
- principle of Community exhaustion of
 rights (Article 345) 3.05
- quantitative restrictions on imports (article
 36) 3.04, 3.05
- restriction to trade of goods and cultural
 products among EU Member States
 (Article 34) 3.04, 3.05, 3.16
- restrictive agreement regulation (Article
 101) 4.03, 4.26, 4.27
- state duties to affirmatively protect
 competition (Article 106) 4.06
- third countries
 external borders with, IPRED 12.03–4
 importation, Information Society
 Directive (Article 19) 11.138
 and piracy *see* piracy, policies and actions
 in fight against, third countries
 protection and treatment of aliens, Term
 Directive (Article 7) 8.48–51
- third parties
 acquired rights and principle of legitimate
 expectations, Term Directive (Article
 10) 8.60
 authorised third parties and applicable law,
 IPRED (Article 4) 12.35
 corrective measures, IPRED (Article 10)
 12.155
 disclosure requirements, IPRED (Article
 8) 12.108
 interests and pecuniary compensation,
 IPRED (Article 3) 12.24
 Internet service providers (ISPs) liability
 11.165, 11.167
 search organisations, regulation of,
 Orphan Works Directive (Article 3)
 13.33
- three-step test
 CJEU role in EU Copyright law
 development 20.32
 Copyright Directive (Article 5) 20.32,
 21.53, 21.56
 Database Directive 9.29, 9.59
 essential facilities principle 4.73
 evolution of copyright law 1.14
 as flexibility clause, EU Copyright Law,
 working towards 21.56
 harmonisation 1.14
 Information Society Directive 9.59, 11.09,
 11.70–73, 11.89, 11.104
 international stance, copyright exceptions
 and limitations 19.37, 19.38, 19.46
 Orphan Works Directive (Article 6) 13.56
 Software Directive (Article 6) 5.125–7
- time factors
 application in time *see* application in time
 Collective Rights Management Directive
 14.50, 14.53, 14.67–8
 cultural heritage, digitisation and
 copyright law 16.11
 proceedings institution, IPRED 12.95,
 12.136
 Rental and Lending Rights Directive
 (Article 1) 6.12
 Torremans, Paul 0.01–11, 11.01–185,
 18.01–93

- Trademark Directive, 'consent' definition 11.57
- transfer of ownership
 Information Society Directive (Article 4) 11.44
 performers to producers, Beijing Treaty on Audiovisual Performances 19.14–15, 19.16, 19.17–18
 Rental and Lending Rights Directive 6.50, 6.78, 11.47
 Satellite and Cable Directive (Article 9) 7.70
 Software Directive (Article 4) 11.47
see also rightholders
- transient copies
 CJEU role in EU Copyright law development 20.34–9
 Information Society Directive 11.66, 11.76
 Software Directive 5.03
see also reproductions
- translations 5.63–6, 9.22
- transparency requirements
 Collective Rights Management Directive
see Collective Rights Management Directive, annual transparency report (Article 20)
 Information Society Directive 11.77–86, 14.02
 piracy policy negotiations 15.195
- Treaty on the Functioning of the European Union *see* TFEU (Treaty on the Functioning of the European Union)
- TRIPs Agreement
 broadcasting organisations protection 19.20–21
 civil and administrative procedures and remedies (Articles 42–9) 15.10
 'commercial scale', lack of definition for 15.82
 compulsory licensing and anti-competitive practices (Article 31) 4.72
 computer program rental right (Article 11) 5.67
 computer programs as literary works (Article 10) 5.07
 computer software source and object code protection (Article 10) 5.18
 copyright protection, automatic 13.39
 corrective measures (Article 46) 12.152
 Customs enforcement 15.17
 damages and IP infringements (Article 45) 12.179
 database definition 9.01
 dispute settlement mechanism 15.11
 essential facilities doctrine 4.69–74
 fair and equitable enforcement (Article 41) 12.23, 12.26
 harmonisation of the criminal laws (Article 61) 12.205
 idea/expression dichotomy (Article 9) 5.13
 information sharing on suspected goods in transit (Article 69) 15.73
 IP rights, alternative measures (Article 44) 12.170
 licensing practices (Article 40) 4.69–71
 most-favoured-nation clause (MFN) (article 4) 2.13, 15.239
 national treatment principle 2.05, 2.08, 2.10, 2.13
 negotiations, international stance 19.02
 originality assessment 5.35
 permanent injunctions (Article 44) 12.161
 personal data protection 12.125
 piracy problems 12.02, 12.05, 15.05, 15.10–12, 15.222, 15.239
 piracy problems, Anti-Counterfeiting Trade Agreement (ACTA) 15.196, 15.204, 15.212, 15.220, 15.223
 preclusion of international exhaustion (Article 6) 3.17
 provisional measures (Article 50) 12.126, 15.10
 right holders access to procedures (Article 42) 12.29
 right of information in national laws (Article 47) 12.100, 12.125
 sanctions and remedies (Articles 41–61) 11.145, 12.19, 12.61
 technical and financial cooperation to developing countries (Article 67) 15.245

- three-step test for copyright limitations and exceptions (Article 13) 4.73, 4.74, 11.70–71, 21.56
- time factors for institution of proceedings, and abuse prevention (Article 50) 12.95
- ‘TRIPs-plus’ standards 15, 238–9, 3.17, 12.61, 12.70–78, 12.99, 12.143–51, 12.161, 12.200, 15.38, 15.137, 15.185
- Turkey, counterfeit and pirated goods 15.04
- ‘type B agreements’, end of, Collective Rights Management Directive (Article 14) 14.52
- UAE, counterfeit and pirated goods 15.04
- Ubertazzi, Benedetta 3.01–17
- UK
- Anton Piller Orders 12.82
 - art and antiques market share 10.92
 - Artists’ Collecting Society (ACS) 10.55
 - Artist’s Resale Rights Regulations 10.80
 - computer program originality assessment 5.33
 - Copyright, Designs and Patent Act, foreign decoding devices 21.17
 - Design and Artist’s Copyright Society (DACS) 10.55
 - Digital Copyright Exchange 13.41
 - Digital Economy Act 11.155, 15.144
 - dominance abuse, non-IP cases requesting access to essential facility 4.31
 - EI du Pont de Nemours* 4.31
 - essential facilities principle 4.33, 4.43
 - exclusive jurisdiction rule 18.16, 18.22
 - freezing injunction (Mareva injunction) 12.143
 - ‘graduated response’ to Internet blocking 15.127
 - Hargreaves Report 11.75, 21.48
 - Intel Corp v Via Technologies Inc* 4.33
 - ISP liability 11.155
 - ITV Publications v Time Out* 4.43
 - Knorr-Bremse Systems v Haldex Brake Products* (Patents Court) 18.16
 - moral rights 1.16
 - orphan works licensing 13.60
 - private copying exception 21.63
 - rental right as exclusive right 6.14
 - resale right and minimum sale price threshold 10.35
 - resale right, term of protection 10.80
 - resale right transitional period 10.18, 10.77
 - resale right transposition, collective rights management 10.55
 - Research in Motion UK Ltd v Visto Corporation* 18.22
 - ‘skill and labour’ test 1.15
 - technical processes involved in viewing copyright material on Internet 11.76
- UNESCO
- folklore and traditional cultural expressions, protection proposals 19.47
 - Intergovernmental Copyright Committee, royalty rate tapering scale criticism 10.41
 - Recommendation on the Safeguarding of Traditional Culture and Folklore 19.47
- United Nations Interregional Crime and Justice Research Institute (UNICRI) participation, piracy policies 15.265
- United Nations Office on Drugs and Crime (UNODC), counterfeiting and organised crime 15.80
- Universal Copyright Convention (UCC), IPRs and piracy 15.07
- Universal Declaration of Human Rights (UDHR)
- non-discrimination principle 2.02
 - protection of moral and economic interests of creators 2.03
- unpublished works
- country of origin definition 2.08
 - Term Directive (Article 4) 8.40–41
 - see also* publishers and publishing
- up-link country focus, Satellite and Cable Directive (Article 6) 7.53
- updates and upgrades, Software Directive 5.87
- Uruguay, resale right 10.02

US

- California Resale Royalty Act (CRRA) 10.69–71
- copyright exceptions and transformative fair use 4.19
- Copyright Extension Act 8.10
- digital environment, adaptation to new challenges 11.92
- Digital Millennium Copyright Act (DMCA) 15.127
- EU resale rights' royalties 10.69–72
- EU–US IPR Working Group 15.243
- fair use clause 11.98, 11.104, 17.21, 21.51–2, 21.54, 21.56
- idea/expression dichotomy application, merger doctrine 5.15
- Kelly v Arriba Soft Corp* 21.51
- lump sum punitive damages payments 12.189
- Perfect 10 v Amazon.com* 21.52, 21.54
- Verizon v. Trinko* 4.19
- users
 - Collective Rights Management Directive 14.20, 14.59, 14.60
 - contribution, cultural heritage, Europeana 16.42, 16.45–7
 - Database Directive *see* Database Directive, lawful users, rights and obligations (Article 8)
 - end-users *see* end-users
 - manual and other users' documentation, lack of protection, Software Directive (Article 1) 5.19–20
 - User-Generated Content (UGC), Digital Agenda initiative 17.07
 - see also* rightholders
- video-on-demand systems, Rental and Lending Rights Directive (Article 3) 6.48
- visually impaired, status of goods produced for 19.33, 19.35, 19.36, 19.37, 19.39, 19.40, 19.43–4, 19.46
- voluntary agreements
 - Digital Agenda initiative 17.19
 - Orphan Works Directive (Article 1) 13.21–3
- Vrins, Olivier 15.01–282
- webcasting and simulcasting, inclusion of, Draft Treaty on the Protection of Broadcasting Organisations 19.27
- WIPO Copyright Treaty (WCT) 1.09
 - 'anti-circumvention devices' 15.12
 - audio-visual fixation 6.35
 - broadcasting organisations' protection, Draft Treaty on the Protection of Broadcasting Organisations 19.22–3, 19.29
 - computer program rental right (Article 7) 5.67
 - computer programs as literary works (Article 4) 5.07
 - database definition 9.01
 - distribution right (Articles 6 and 7) 11.36, 11.41, 11.50
 - exclusive competence debate, international stance 19.61
 - idea/expression dichotomy (Article 2) 5.13
 - Intergovernmental Committee (IGC) involvement, folklore and traditional cultural expressions, protection proposals 19.47, 19.48, 19.49, 19.51–4
 - Internet Treaty 15.12
 - licence refusal 4.04
 - minimum infringement threshold 18.91
 - national treatment principle 2.08
 - originality assessment 5.35
 - and piracy *see* piracy, policies and actions in fight against, third countries, non-legislative actions, WIPO participation
 - protection of photographs (Article 9) 8.44
 - right of communication to the public (Article 8) 11.13
 - rights management information (Article 12) 11.129
 - sanctions and remedies (Article 14) 11.145

- technical protection measures (Article 11)
11.99, 11.107, 15.32
- three-step test (Article 10) 11.70–71
- time frame concerns, international stance
19.58–60
- see also* Berne Convention; Rome
Convention
- WIPO Performance and Phonogram Treaty
(WPPT) 1.09
- ‘anti-circumvention devices’ 15.12
- copyright and related rights, relation
between (Article 1) 7.51
- Diplomatic Conference and protection of
performers, Beijing Treaty on
Audiovisual Performances 19.06–8
- distribution rights 11.50
- Internet Treaty 15.12
- national treatment principle 2.08
- performance fixation 8.34
- performing artists and producers of
phonograms, related rights (Article
18) 8.26, 8.29
- Protocol proposal audiovisual
performances, Beijing Treaty on
Audiovisual Performances 19.09–11
- related rights protection (Article 1) 11.180
- right of communication to the public
(Article 14) 11.13
- rights management information (Article
12) 11.129
- sanctions and remedies (Article 23)
11.145
- technical protection measures (Article 18)
11.99, 11.107, 15.32
- wireless broadcasting, Satellite and Cable
Directive 7.48
- witness identity protection, IPRED (Article
7) 12.98
- Wittem Copyright Code* 1.23, 11.95, 11.103,
11.106, 17.18, 17.21, 22.03
- ‘work’ concept, CJEU role in EU Copyright
law development 20.05, 20.10, 20.13
- World Customs Organisation (WCO),
piracy policies 15.123, 15.256–8
- World Intellectual Property Organisation *see*
WIPO headings
- World Trade Organisation (WTO) Dispute
Settlement Panel
Irish Music 15.247
- TRIPs Agreement *see* TRIPs Agreement
- US v. China* 15.82, 15.223

