

Copyright and the preparation of texts for translation – what you need to know

Introduction

The following guide is designed to help anyone trying to navigate the complexities of copyright as it applies to translation. Interpreting what is stated in copyright law can be fraught with difficulty, particularly when some terms, such as ‘fair dealing’, are undefined. Virtually everything that staff and students will be translating is protected by copyright, so the key is to understand what licences and copyright exceptions are available. Sometimes it is necessary to take a risk-managed approach to copyright. None of what follows constitutes legal advice.

Generally speaking, translating anything for the purposes of education and examination is unlikely to cause any problems, provided the translation is not published or made available on the internet.

What does the CDPA say?

The Copyright, Designs and Patents Act (CDPA) 1988 makes it clear that the making of an adaptation of a work is an act restricted by the copyright in a literary, dramatic or musical work. In relation to literary or dramatic works, the act of translating such works is considered to be an adaptation¹. So, by translating a work you are potentially infringing someone’s copyright, which is illegal.

Fortunately, if you want to prepare material for your student to translate, there are ways to do this legally by using a combination of licensing and copyright exceptions.

Preparing texts for your students to translate

Extracts from printed books and journals

It is possible to copy published works under the terms of our CLA Higher Education Licence. This is the best way to distribute texts for translation as it is risk-free. The only way you should be applying this licence is by using reading lists, from which you make a digitisation request. Do not copy published works yourself and upload them to Moodle. The Library website contains some general instructions about Digitisation Requests (<https://library.port.ac.uk/digitise.html>). Here’s what to do:

1. Add details of the extract that you want students to translate to your reading list. Note that it has to be an extract. The CLA Licence allows you to copy
 - a. a whole book chapter
 - b. a whole article from a journal or a magazine
 - c. a whole scene from a play
 - d. a short story, poem or play (not exceeding 10 pages in length) from an anthology

or

10% of the total publication

You can also copy from some websites.

You cannot copy newspapers under this licence (see below).

2. Select the item on your Reading List that you would like to be digitised and select the **Request Digitisation** button.
3. Once the Library has completed your digitisation then you can go into Moodle and add a link to your digital copy. There are instructions about editing reading lists here

¹ [CDPA 1988 s.21\(3\)](#)

<https://library.port.ac.uk/w704.html>. You could include in Moodle some instructions about the translation activity.

It is important to note that the work from which the extract is to be taken has to belong to the institution. In most cases this means it is part of the Library collection. You may not use your own copies of books, journals etc. as source copies for scanning.

If you want to check in advance that the copy is allowed under the Licence, go to the Check Permissions Tool (<https://www.cla.co.uk/checkpermissions>) and enter the ISBN, ISSN or URL of the item you want to copy. Make sure you are seeing results for the Higher Education Licence Sector.



If you get a result like this then you are good to go!


TATSACHEN UBER DEUTSCHLAND

ISBN:	9783797305527
Contributor:	KAPPLER, ARNO
Publication Type:	Book
Publication Form:	Print
Country of Publication:	Germany

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But it may also tell you that copying isn't allowed. So in this example there are warnings that this title is excluded from the CLA licence repertoire and cannot be copied.

Journal of the Medical Association of Thailand

ISSN:	24081981
Publication Type:	Journal/Magazine
Publication Form:	Print & Digital
Country of Publication:	Thailand, Kingdom of

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If the tool tells you that scanning is not allowed then you will need to find an alternative source of material to scan.

Digital publications (eBooks and eJournals)

If you want to make copies from a digital publication, you can do this either under the primary (subscription) licence or the CLA Licence. You must make sure that you do not override or circumvent any digital rights management (DRM) protocols embedded within the product. This might include copying and pasting, or by copying one page at a time (including into a different format). You can print out copies from a digital product and then scan these under the licence, if you wish to.

Newspapers

The University subscribes to PressReader, which provides digital access to a large number of newspapers and magazines. This includes many international newspapers, such as El País, Le Figaro and Dainik Jagran. You are free to copy articles on PressReader and use them for teaching or translation.

Assessment and examination

Section 32 of the CDPA (illustration for instruction) allows copying for the purpose of examination. Copying under this exception is subject to fair dealing, so only small amounts can be copied and acknowledgement must be made where practicable. Answering an examination question might include writing a dissertation or thesis in order to meet the requirements of a qualification. The amount you can copy is not defined in the Act, so it is up to the individual making the copy to decide what quantity might be considered fair. As a guide, it is likely that copying no more than 5% of a work might be considered fair.

CDPA section 36: educational copying

This section of the CDPA allows copying and use of copies of extracts from copyright works for multiple users. If you have a work you want to copy (other than a broadcast or an artistic work which is not incorporated into another work) and it is not covered by an existing licence then you can make use of this exception. For example, if a work is not covered by our CLA Licence then you can choose to rely on s.36. The following conditions will apply:

- The copy must be for the purpose of instruction.
- The copy must be accompanied by sufficient acknowledgement.
- No more than 5% of the work may be copied by or on behalf of the University in any period of 12 months.

This exception might apply, for example, if you are translating short extracts from foreign titles not held by the institution.

Broadcasts

The library provides access to streamed broadcasts via the Box of Broadcasts (BoB) service. BoB operates specifically within the terms of the ERA licensing scheme offered by the Educational Recording Agency. The ERA Licence does not permit the adaption or manipulation of an ERA recording. It is an infringement to adapt a work without permission, which includes a translation. Section 36 of the CDPA (above) does not apply to broadcasts.

Subtitling

It is hard to find any guidance relating specifically to the subtitling of copyright works or translating subtitles. This is likely to be covered by a copyright exception and, for educational/examination purposes, is probably low risk.

Adaption of extracts

Any adaption, which includes translation, should include an indication that the extract has been altered. For example, 'this extract has been adapted from [Title] by [Author]'.

Acknowledgement

Finally, one golden rule. Always fully acknowledge your source.

Further information

Please contact David Sherren (Map/Copyright Librarian) david.sherren@port.ac.uk.

David Sherren
University Library

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