



COPYRIGHT



Outline:

- Background information on copyright:
 - What is copyright?
 - The purpose of copyright law
- Protectable works under the Copyright Act:
 - Considerations for a subject matter to qualify as 'work' under S 1(1)
 - Detailed discussion of eligible 'works'



1. What is copyright?

“Copyright is the exclusive right in relation to work embodying **intellectual content** (i.e., the product of the intellect) to do or to authorize others to do certain acts in relation to that work, which can be exploited for personal gain or profit”.

Dean (service 13, 2006, p.1-1)




2. The purpose of copyright law

- afford a ***qualified monopoly*** in the use or exploitation of a work in order, firstly to ***compensate and reward*** its creator for the effort
- and secondly ***to act as an incentive***




No copyright in ideas, only in the
expression of ideas



3. Protectable works under the Act

Section 2(1) of the Copyright Act lists the following works as eligible for protection, **if they are original**:

- (a) literary works;
- (b) musical works;
- (c) artistic works;
- (d) cinematograph films;
- (e) sound recordings;
- (f) broadcasts;
- (g) programme-carrying signals;
- (h) published editions;
- (i) computer programs.



Considerations for a subject matter to qualify as ‘work’

“The subject matter must have **sufficient substance** to warrant being the subject of protection under the Act.”

-Dean p.1-5.

I.e., that the work is not too commonplace (trite, trivial or does not excite peculiar attention)-Dean p.1-5



Waylite Diary CC v First National Bank Ltd:

Work in dispute

The appointment pages in which copyright was claimed consisted of pairs of facing pages, each pair covering a particular week, beginning on a Monday. On the first line of the left-hand page appeared the month in English and Afrikaans as well as the number of the week. The days of the week were then listed in English and Afrikaans and dated on the same page, four horizontal lines of writing space being allocated for weekdays and two such lines each for Saturdays and Sundays. The right-hand page contained a number of lines for the making of notes and at the foot thereof was a calendar consisting of the current and the two succeeding months. The colours and typeface used followed the respondent's standard corporate identity specifications.



Waylite Diary CC v First National Bank Ltd:

Issues

Whether appointment pages in a printed diary was a proper subject-matter for copyright protection. In particular, did these pages constitute 'drawings' or a 'chart' within meaning of '**artistic work**' in the Act?



Waylite Diary CC v First National Bank Ltd:

Judgment


- it could not, on any common-sense approach to the matter and having regard to the ordinary accepted meaning of the term, be fairly said that the appointment pages were drawings. (At 651C/D-D.)
- it could not be accepted that, fairly speaking, it could be said that the works in issue were charts. (At 651E and E/F-F/G.)
- the appointment pages were not covered by the term 'literary work'. (At 651J-652A.)



Waylite Diary CC v First National Bank Ltd:

Judgment

- 'there seems to be nothing that can properly be described as an "original literary work" in grouping together' the information in the appointment pages and that not every compilation could claim to be an original literary work 'even in the pedestrian sense attributed to these words by the law'. (At 652F-G.)
- for a compilation to be the subject of copyright, it had not to be commonplace: the so-called compilation in the present case was clearly commonplace. (At 657B-C.)



Works that have been held to be eligible

- Wage and salary forms
- Statement of account forms used by the medical profession
- Computer programmes
- Spare parts catalogue