

Abstract:

## **Textual Entities and Material Remains: on Copyright and Typographical Layout.**

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Copyright law has as its object of protection the ‘original works’ of writers and artists. However, in legal terms an ‘original work’ is not a work of art or literature as we are used to handling or viewing it; rather it is an immaterial entity. A work may be realised in various material forms but the work in itself remains intangible. Thus the ‘literary work’ as protectable by copyright law is not a book, not even a first edition, nor the manuscript. Such are mere physical instantiations, regarded by the law merely as samples or ‘copies’.

The definition of the work as an immaterial entity has been a fundamental principle in all laws of copyright since the nineteenth century: the law makes a careful distinction between the immaterial ‘work’ and the material ‘copy’. However, there is often something else, a ‘material remainder’ of any ‘work’ of art, or of literature, and this residue or trace occupies an anomalous status within copyright law.

This paper will look at some examples in copyright law of the ‘material residue’ of the work. The Copyright Act of 1956 introduced to Britain the notion of ‘copyright in published editions of works’; this makes it an infringement to copy the ‘typographical arrangement’ of the published edition of a work, even when that ‘work’ is out of copyright. The right ensures that, whether or not copyright subsists in a literary work, the publisher will hold a copyright in the ‘character’ or ‘appearance’ of the newly published form of the work. In the British court case *Newspaper Licensing Agency Ltd v Marks and Spencer PLC*, which went to the House of Lords, such a right posed a difficult question: would the Law Lords be forced to acknowledge the materiality of the text as a work and not a copy thereof?

Bio:

Stina Teilmann-Lock holds a PhD in comparative literature from the University of Southern Denmark. She is the author of *British and French Copyright: A Historical Account of Aesthetic Implications* (Copenhagen, 2009), co-editor of *Art and Law: The Copyright Debate* (Copenhagen, 2005) and has published numerous articles on copyright and intellectual property. She has worked as a patent administrator and now holds a Postdoctoral Fellowship at the Danish Design School. ste@dkds.dk