

Copyright Holder

1. Author, Sec. 7 UrhG

- Natural persons only
- Creation process is a real act, therefore legal capacity is not a prerequisite
 - (+) for children or the mentally ill
 - (-) e.g. for painting monkeys; robot that produces a drawing when a coin is inserted; composing program
- If there is no copyright notice on the work (Sec. 13 UrhG), the presumption of Sec. 10 (2) UrhG applies.
- No author is
 - Assistant (e.g. craftsman who creates sculpture according to exact specifications)
 - Customer; however, the latter may be granted rights of use (Sec. 31 et seq. UrhG).
 - Employer; however, rights of use are also possible, which can also be granted implicitly in the absence of an express agreement (so-called transfer purpose theory).

2. Joint Authors, Sec. 8 UrhG

Two or more co-authors jointly create a work in which each makes a peculiar intellectual contribution and the created work forms an *inseparable* unit.

Examples of joint authorship:

- Common text
- Programmers write a program together

Legal consequence

According to the general opinion, co-authors form a community of joint owners:

- Co-authors can only jointly publish and exploit the work, changes to the work are only permitted with the consent of the co-authors, Sec. 8 (2) 1 UrhG.
- Each co-author is entitled to assert claims arising from infringements of the joint copyright; however, he may only demand performance to all co-authors, Sec. 8 (2) 3 UrhG
- The proceeds from the use of the work are due to the co-authors according to the extent of their participation in the creation of the work, Sec. 8 (3) UrhG.
- A co-author may waive his share of the exploitation rights, Sec. 8 (4) UrhG

3. Authors of Compound works, Sec. 9 UrhG

Legal agreement of the respective sole authors of several *independent* works for joint exploitation

Examples of connected works:

- Illustrated children's books: author and artist
- Opera: Lyricist and composer
- Also for pop music: Lennon/McCartney or Jagger/Richards

Legal consequence:

Each author retains his right to the work he has created, but may require the other to consent to the publication, exploitation or modification of the associated works if the other can reasonably be expected to give such consent in good faith, Sec. 9 UrhG.

The agreement of the authors creates a civil law partnership pursuant to Sec. 705 et seq. BGB

4. Authors of film and television works

The group of people whose achievements are somehow included in the finished film is very large.

Involved in a film are mainly:

- Authors of pre-existing works (e.g. novel)
- Screenwriter
- Composer of film music
- Director
- Cameraman
- Editing and sound engineer
- Producer
- Actors

Who is the author of the film work is therefore disputed.

One opinion: Category method

Certain category of filmmakers (e.g. scriptwriter, director, producer) should be creators

Prevailing opinion: Case method

Determination of authorship in individual cases

A film author is therefore anyone who produces a film-specific creative work. In any case, this includes the director, and in individual cases also the cameraman or editor.

Authors are not in any case:

- Author of a filmed novel, cf. Sec. 88 UrhG
- Creator of those works created for the individual film, e.g. screen- writer, composer of the film music, cf. Sec. 89 (3) UrhG