

Artist's video with copyright material in the soundtrack

Scenario: Academic A wishes to deposit in the repository a video piece that he has produced with no input from anyone else and using his own original visuals. However, the video has a sound track which

includes 20 to 40 second excerpts from four published songs. Each song has a different composer, lyricist, recording date and publisher.

Rights Issues: Academic A will own copyright of the video. However as the soundtrack contains other people's work there are likely to be multiple layers of rights associated with it. Composers and/or lyricists will each hold copyright in their own particular work for 70 years after their death. The recording being used in the soundtrack will have 50 years copyright duration since the date the recording was made or, if it has been published, the date of publication.

Resolution: Under normal circumstances all copyright holders will have to be traced and consent to having their work being published as part of the video piece in the repository. However given the relatively short nature of the sound clips some leeway may be granted under fair dealing exceptions. Much will depend on how the songs are presented in the piece and the extent to which the artist, or the academic institution, stands to make commercial gain by publishing in the repository. This is however a difficult area and extreme caution should be used when trying to apply fair dealing in an open access repository setting. The decision to go ahead and publish via the repository without seeking permission and using fair dealing as a legal defence should only be taken by a copyright expert within the institution.