Copyright Issues Related to Scientific Work

- (Swiss) Copyright
- Creative Commons licenses
- How to use content legally
A very short history of copyright

Until late 19th century: The pirate publisher – an international burlesque that has had the longest run on record.

1886: The Berne Convention, an international agreement governing copyright, was signed.

- slow uptake
- several revisions
- now: 167 contractors

The Pirate Publisher - An International Burlesque that has the Longest Run on Record

by Joseph Ferdinand Keppler

published as a centrefold in Puck, 24-02-1886


Berne Convention for the Protection of Literary and Artistic Works

Treaty

Full text of the Berne Convention [PDF]
Swiss Federal Act on Copyright and Related Rights

Chapter 1: Works

Art. 2 Definition of works

1 Works are **literary and artistic intellectual creations with an individual character**, irrespective of their value or purpose.

2 They include, in particular:
   a. literary, **scientific** and other linguistic works;
   b. musical works and other acoustic works;
   c. works of art, in particular paintings, sculptures and graphic works;
   d. works with scientific or technical content such as **drawings, plans, maps** or three-dimensional representations;
   e. works of architecture;
   f. works of applied art;
   g. photographic, cinematographic and other visual or audiovisual works;
   h. choreographic works and works of mime.

3 **Computer programs** are also works.

4 **Drafts, titles and parts of works**, insofar as they are intellectual creations with an individual character, are also protected.
Chapter 2: Author

Art. 6 Definition
The author is the natural person who has created the work.

Art. 7 Joint authorship
Where two or more persons have contributed as authors to the creation of a work, copyright belongs to all such persons jointly. (…)

Outbreak concerning Authorship
Guidelines on Research Integrity

Authorship
Reputation is the most valuable asset of every researcher. The success of the performance and the quality of a researcher is primarily based on his or her publications and their impact. A fair publication practice is therefore of central importance for all researchers.

A person is considered as an author of a scientific publication who fulfills all of the following criteria:

- Personally providing a significant contribution to the planning, execution, control or evaluation of a piece of research,
- Participating in the drafting of the manuscript, and
- Approving the final version of the manuscript.

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A managing function, or providing financial, logistic or organisational support for a research project, does not, of itself, entitle a person to appear as an author.

Honorary or courtesy authorship is not acceptable.

Authorship and the order of authors must be discussed and agreed upon at an early stage with all those involved. Definition of the order of authorship can be determined according to generally accepted rules. The agreement may be revised, however, when additional persons become involved in the project or when changes are made to the content.

The corresponding author, generally the PI, has overall responsibility for the content of the publication and is charged with checking that the designated authors fulfill the criteria for authorship. All co-authors are accountable for the accuracy of content, correct presentation and conclusions that have been drawn from the data, as far as they can be verified.
Chapter 3: Scope of Copyright

Art. 9 Recognition of authorship
1 The author has the exclusive right to his own work and the right to recognition of his authorship.
2 The author has the exclusive right to decide whether, when, how and under what author's designation his own work is published for the first time. (…)

Art. 10 Use of the work
1 The author has the exclusive right to decide whether, when and how his work is used. (…)

Art. 11 Integrity of the work
1 The author has the exclusive right to decide:
   a. whether, when and how the work may be altered;
   b. whether, when and how the work may be used to create a derivative work or may be included in a collected work.
2 Even where a third party is authorised by contract or law to alter the work or to use it to create a derivative work, the author may oppose any distortion of the work that is a violation of his personal rights.
3 It is permissible to use existing works for the creation of parodies or other comparable variations on the work.
Chapter 6: Term of Protection

Art. 29 In general

1 A work is protected by copyright as soon as it is created, irrespective of whether it has been fixed on a physical medium.

2 Protection expires:
   a. in the case of computer programs, 50 years after the death of the author;
   b. in the case of all other works, 70 years after the death of the author.

3 Where it is has to be assumed that the author has been dead for more than 50 or 70 years respectively, protection no longer applies.
Swiss Federal Act on Copyright and Related Rights

Chapter 5: Exceptions to Copyright

Art. 19 Private use

1. Published works may be used for private use. Private use means:
   a. any personal use of a work or use within a circle of persons closely connected to each other, such as relatives or friends;
   b. any use of a work by a teacher and his class for educational purposes;
   c. the copying of a work in enterprises, public administrations, institutions, commissions and similar bodies for internal information or documentation.

2. Persons entitled to make copies of a work for private use may also have them made by third parties subject to paragraph 3; libraries, other public institutions (…)

3. The following are not permitted outside the private sphere defined in paragraph 1 letter a
   a. the complete or substantial copying of a work obtainable commercially; (…)

Art. 20 Remuneration for private use

(…) private use under Article 19 paragraph 1 letter b or letter c, (…) owes remuneration to the author. (…) asserted by the authorised collective rights management organisations. (…)

Art. 25 Quotations

(…) Published works may be quoted (…) quotation must be designated as such and the source given.
Remuneration for private use

Copyright collecting societies in Switzerland

- SUISA - music
- Suissimage - audio-visual works
- SSA (Société Suisse des Auteurs) - dramatic works and audio-visual works
- ProLitteris - literature, photographs and arts
- SWISSPERFORM - related rights
Remuneration for private use

Possible for
- Dissertations
- Books or book chapters
- Articles in Swiss or international journals

The premise
- Published work must be sold in CH (at least 500 copies) or it must be available to the public in print (in at least 2 Swiss libraries)

What to expect (examples from 2013)
- Disbursement once a year
- Dissertation (350 pp.) -> CHF 78
- Article (20'000 characters, 850 issues in CH at CHF 37) -> CHF 99
How to get remuneration from ProLitteris

Get member

- Prerequisite: Residence in Switzerland
- No online-registration. Simply mail to mitglieder@prolitteris.ch and ask for an account.

Register individual works online.
You can allow the usage of your works

Creative Commons

- Attribution
- Non- Commercial
- No Derivatives
- Share Alike

«No Rights Reserved»
Components of the license

Three “Layers” Of Licenses

The legal code

Human readable
- A link to the explanation

Machine Readable
- code in a website
- often provided by the platform itself
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It is easy: 
creativecommons.org
- Licenses
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Learn how to share your work with existing communities that have enabled Creative Commons licensing.
How to find cc-licensed works?

- google.com
  - Images
  - Search tools
  - Usage rights

- creativecommons.org
  - Licenses
  - Find licensed content
Exercise

Assume, that you are creating a presentation with the topic «Plastic Materials in the Ocean».

The presentation slides will be on the web. Can you find a photo on the web, that you can use for this presentation?
How to use cc-licensed works? – An Example

Just give attribution:
- Creator
- (Title)
- Link to the source
- License

Day Donaldson: «Mystery of ocean garbage partially solved, but questions remain»
https://www.flickr.com/photos/thespeakernews/16033037776 (CC-BY-2.0)
### What does this mean for publications?

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**Mark it?**
- with CC button (see previous slides)

**How to use material?**
- just give attribution
You can give away your copyright with a license

Copyright transfer agreements are very common among STM publishers
Read it, change it and then sign it

- Modify critical topics in the copyright transfer agreement such as „exclusive" transfer of "all" rights. It doesn’t have to be all or nothing.
- Alternatively, add an addendum that retains these rights

SPARC Author Addendum to Publication Agreement

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Author: JAMIE L. RAFTER, ANURAG A. AGRAWAL, EVAN L. PREISSER

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Date: Jan 22, 2013

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