Lothar Nunnenmacher

Copyright & Creative Commons licences

- Principles of
  - Copyright
  - Creative Commons licences
- How to … in a scientific context
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: 172 contractors

Berne Convention for the Protection of Literary and Artistic Works

The Berne Convention, adopted in 1886, deals with the protection of literary and artistic works in member countries.
Swiss Federal Act on Copyright and Related Rights


231.1

Federal Act on Copyright and Related Rights

(Copyright Act, CopA)

of 9 October 1992 (Status as of 1 January 2017)

The Federal Assembly of the Swiss Confederation,
on the basis of Articles 95 and 122 of the Federal Constitution1,2 and havingconsidered the Dispatch of the Federal Council dated 19 June 19893,
decrees:

- Titel 1 Subject-Matter
- Art. 1

1 This Act regulates:
   a. the protection of authors of literary and artistic works;
   b. the protection of performers, producers of phonograms and audiovisual fixations and broadcasting organisations;
   c. the federal supervision of the collective rights management organisations.

2 International treaties remain reserved.
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.

<=> Patents

A patent gives its owner the right to exclude others from making, using, selling, and importing an invention for a limited period of time, usually twenty years. (Wikipedia)
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. (…)

US Copyright Law
(Exceptions)

105. Subject matter of copyright: United States Government works
Copyright protection under this title is not available for any work of the United States Government, (…)

201. Ownership of copyright
(b) In the case of a work made for hire, the employer or other person for whom the work was prepared is considered the author for purposes of this title, and, unless the parties have expressly agreed otherwise in a written instrument signed by them, owns all of the rights comprised in the copyright.
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; (...)

US Copyright Law
Chapter 1: Subject Matter and Scope of Copyright

107. Limitations on exclusive rights: Fair use
   (...) the fair use of a copyrighted work, (...) for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research, is not an infringement of copyright.

In determining whether the use made of a work in any particular case is a fair use the factors to be considered shall include
(1) the purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes;
(2) the nature of the copyrighted work;
(3) the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and
(4) the effect of the use upon the potential market for or value of the copyrighted work.
Swiss Federal Act on Copyright and Related Rights

Chapter 5: Exceptions to Copyright

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. (...)

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 100 copies) or it must be available to the public in print in at least 3 Swiss libraries
- No minimum circulation for dissertations
- New in 2018: online publications are also considered (ProLitteris counter cookie at the publishers website necessary)

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

- Become a member of ProLitteris (prerequisite: residence in Switzerland)
- Register for an account at https://prolitteris.ch/urheber-verlage/mitgliedschaft/mitglied-werden-formular/
- Register individual works online.
Chapter 5: Exceptions to Copyright

Art. 25 Quotations

(...) Published works *may be quoted* (...) quotation *must be designated as such* and the source given.
Copyright

Exceptions («fair use»)

Creative Commons
You can allow the usage of your works

Wanna Work Together? by Creative Commons, https://creativecommons.org/about/videos/wanna-work-together/, CC BY.
License Conditions

**Attribution** (by)
All CC licenses require that others who use your work in any way must give you credit the way you request, but not in a way that suggests you endorse them or their use. If they want to use your work without giving you credit or for endorsement purposes, they must get your permission first.

**NonCommercial** (nc)
You let others copy, distribute, display, perform, and (unless you have chosen NoDerivatives) modify and use your work for any purpose other than commercially unless they get your permission first.

**NoDerivatives** (nd)
You let others copy, distribute, display and perform only original copies of your work. If they want to modify your work, they must get your permission first.

**ShareAlike** (sa)
You let others copy, distribute, display, perform, and modify your work, as long as they distribute any modified work on the same terms. If they want to distribute modified works under other terms, they must get your permission first.

From: [https://creativecommons.org/share-your-work/licensing-types-examples/](https://creativecommons.org/share-your-work/licensing-types-examples/)
Give attribution + different options to limit reuse

- BY - Attribution
- NC - Non-Commercial
- ND - No Derivatives
- SA - Share Alike

«No Known Copyright» PUBLIC DOMAIN
«No Rights Reserved» CC0
Components of the license

The legal code

Human readable
- A link to the explanation

Machine Readable
- code in a website
- often provided by the platform itself
State of the Commons

CREATIVE COMMONS LICENSED WORKS

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From: [https://stateof.creativecommons.org](https://stateof.creativecommons.org), CC-BY
Copyright

- How to reuse a copyright protected work?

Creative Commons

- How to get a licence?
- How to find CC-licensed works?
- How to reuse a CC-licensed work?
How to get a license?

It is easy:

- creativecommons.org
- Share your work
- Choose a License
How to find cc-licensed works?

- google.com
  - Images
  - Tools
  - Usage rights

- creativecommons.org
  - Use & remix
  - Search the Commons
Exercise

Assume, you are creating a presentation with the topic «Plastic Materials in the Ocean». The presentation slides will be on the web.

1. Can you find a photograph on the web, that you can use for this presentation?

2. What exactly is the licence for the photograph, you have chosen.

3. How would you cite this photograph in your presentation?
How to reuse CC-licensed works? – An Example

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

NOAA Marine Debris Program: «Marine debris laden beach in HawaiiDay»
https://www.flickr.com/photos/noaamarinedebris/7656551586/, CC-BY-2.0
Exercise

1. Please join the search options in Google (image search) with the proper license:

![Google Image Search with Usage Rights Filtered]

- CC-BY
- CC-BY-SA
- CC-BY-ND
- CC-BY-NC
- CC-BY-NC-SA
- CC-BY-NC-ND

- Labeled for reuse with modification, also commercial
- Labeled for reuse without modification, also commercial
- Labeled for noncommercial reuse with modification
- Labeled for noncommercial reuse without modification
Exercise

2. Please join the search options in the CC Search with the proper license:
Reusability

Scientific Information: Exponential Increase

(From: Larsen PO & M Ins, 2010: The rate of growth in scientific publication and the decline in coverage provided by Science Citation Index. *Scientometrics* 84, 575-603. DOI: 10.1007/s11192-010-0202-z. CC-BY-NC).


**Fig. 2** Cumulative number of records for nine databases 1907-2007 (semi logarithmic scale)
How to reuse a copyright protected work?
# Let’s sum up

## How to license it?
- **CC-License**: just mark it via uploading to a system / Open Access Publishing
- **Copyright**: you have it unless you give your rights away, e.g. via “Copyright Transfer Agreements”,…

## Mark it?
- **CC-License**: with CC button
- **Copyright**: with © (although not necessary)

## How to use material?
- **CC-License**: just give attribution
- **Copyright**: ask copyright holder
Thank you for your attention!

Dr. Lothar Nunnenmacher  
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www.lib4ri.ch
Sources and further reading


- Competence Center in Digital Law: ccdigitalaw.ch online: www.ccdigitallaw.ch

- Copyright Law of the United States online: https://www.copyright.gov/title17/