Lib4RI

April 2023

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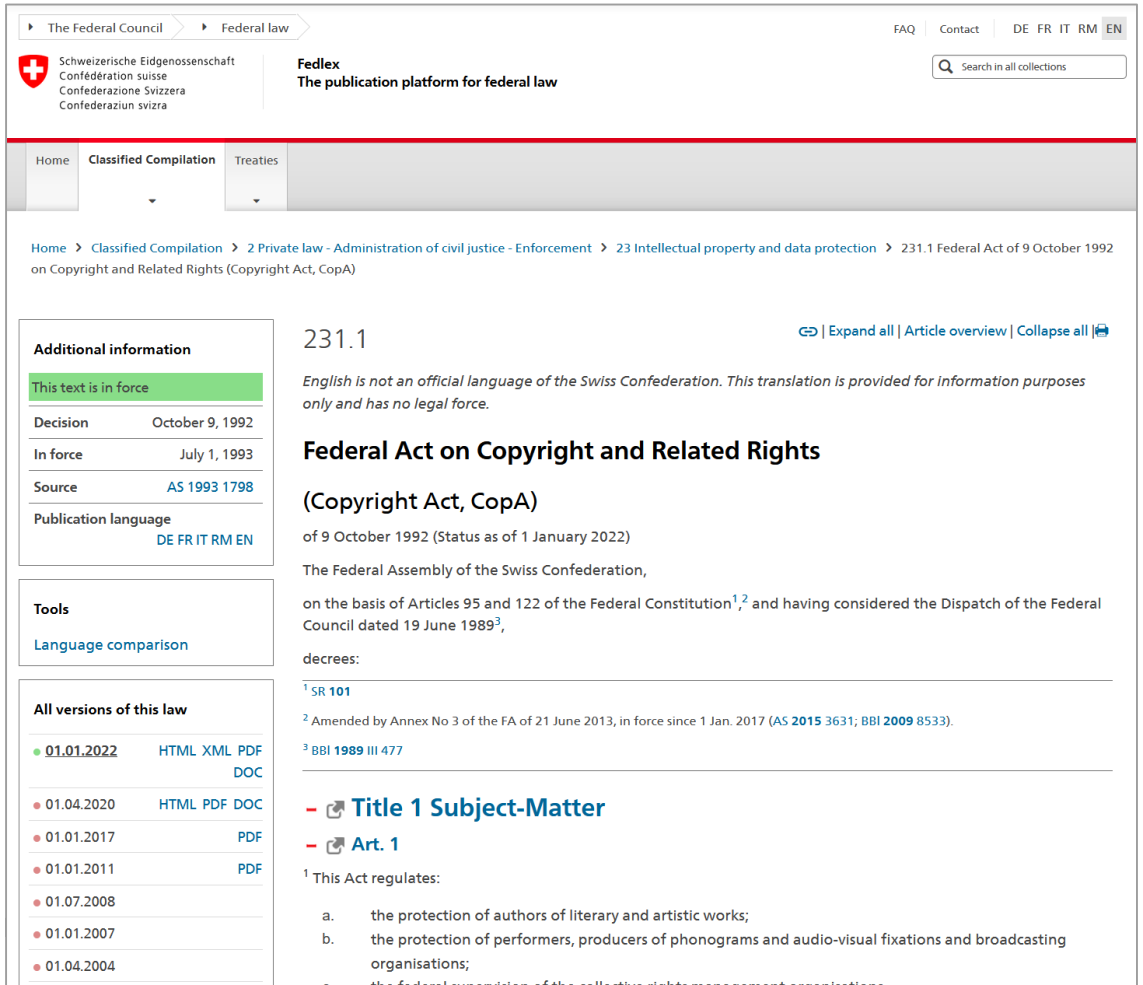
Dr. Lothar Nunnenmacher, Lib4RI

Copyright

Swiss Federal Act on Copyright and Related Rights

https://fedlex.data.admin.ch/eli/cc/1993/1798_1798_1798



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

- slow uptake
- several revisions
- now: 180+ contractors

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.

<=> 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)

What do you think: Which of the following photographs is protected by Swiss copyright law?

Christoph Meili
Photograph: Gisela Blau

Bob Marley
Photograph: Max Messerli

London, Towerbridge
Photograph: Lothar Nunnenmacher

Hug G, 2005: Bob Marley vs Christoph Meili: ein Schnappschuss. Sic-online 9(1): 078, https://www.sic-online.ch/fileadmin/user_upload/Sic-Online/2005/documents/057.pdf.

Since 1. April 2020: Photographic depictions and depictions of three-dimensional objects produced by a process similar to that of photography are considered works, even if they do not have individual character.

Swiss Federal Act on Copyright and Related Rights

Chapter 2: Author

Art. 6 Definition

The author is **the natural person who has created the work**.

Art. 7 Joint authorship

1 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**.

Swiss Federal Act on Copyright and Related Rights

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.

What do you think: How long is a work protected by Swiss copyright law?

- 2 years
- 20 years
- 70 years
- 70 years after the death of the creator
- for unlimited time

Swiss Federal Act on Copyright and Related Rights

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.

Afterwards

If unclear

- Orphan works

Exceptions to Copyright

Swiss Federal Act on Copyright and Related Rights

Chapter 5: Exceptions to Copyright

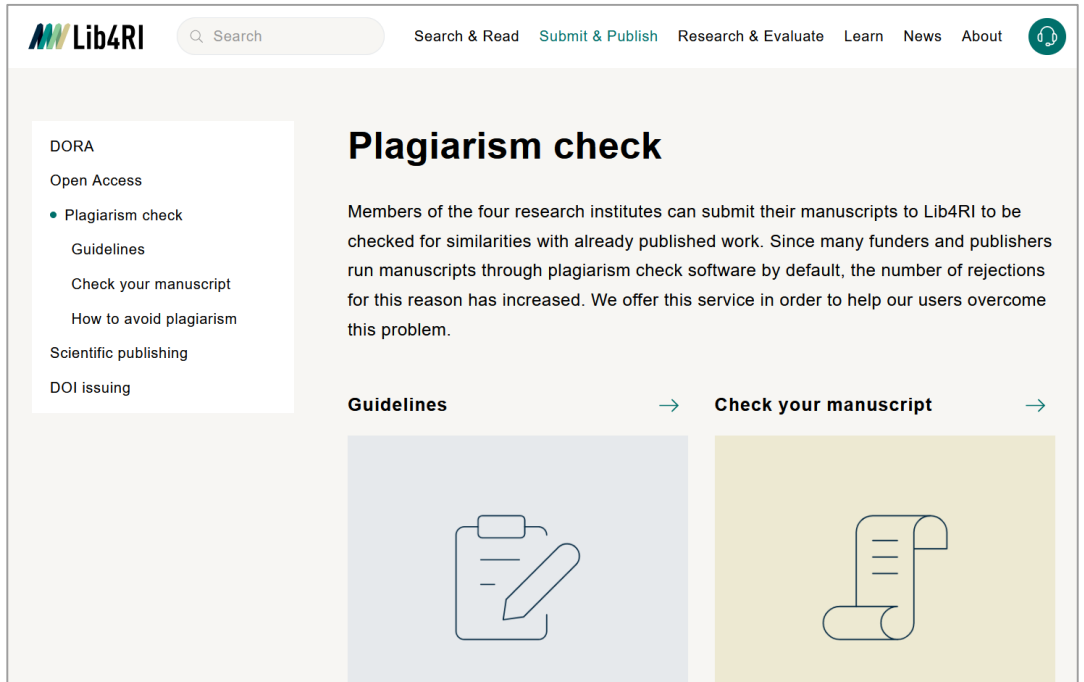
Art. 25 Quotations

1 Published works **may be quoted** if the quotation serves as an explanation, a reference or an illustration, and the extent of the quotation is justified for such purpose.

2 The quotation **must be designated as such and the source given**. Where the source indicates the name of the author, the name must also be cited.

Hot Topic: ChatGPT

We will try to host a presentation in the next weeks.



Swiss Federal Act on Copyright and Related Rights

Chapter 2: Author

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.

According to Swiss copyright law, which of the following «works» are you allowed to share with a colleague?

- o a journal article, authored by yourself
- o any journal article
- o a book chapter
- o a complete book, commercially available
- o none of them

Swiss Federal Act on Copyright and Related Rights

Chapter 5: Exceptions to Copyright

Art. 20 Remuneration for private use

2 (...) Any person who reproduces works in any manner for private use under Article 19 paragraph 1 letter b or letter c, (...) **owes remuneration to the author**.

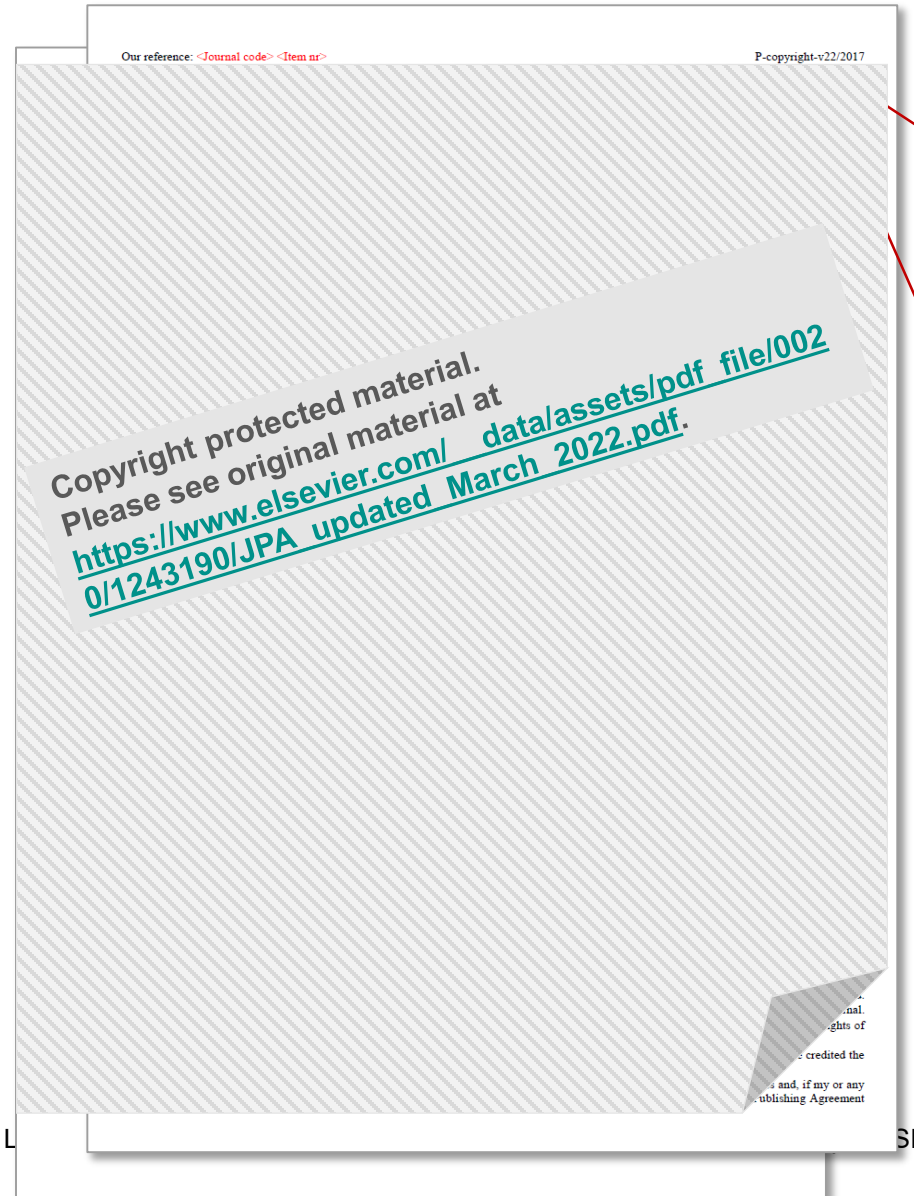
4 Claims for remuneration may only be asserted by the authorised **collective rights management organisations**.

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

Copyright Transfer Agreements

Journal Publishing Agreement – Elsevier



available at https://www.elsevier.com/about/policies/copyright

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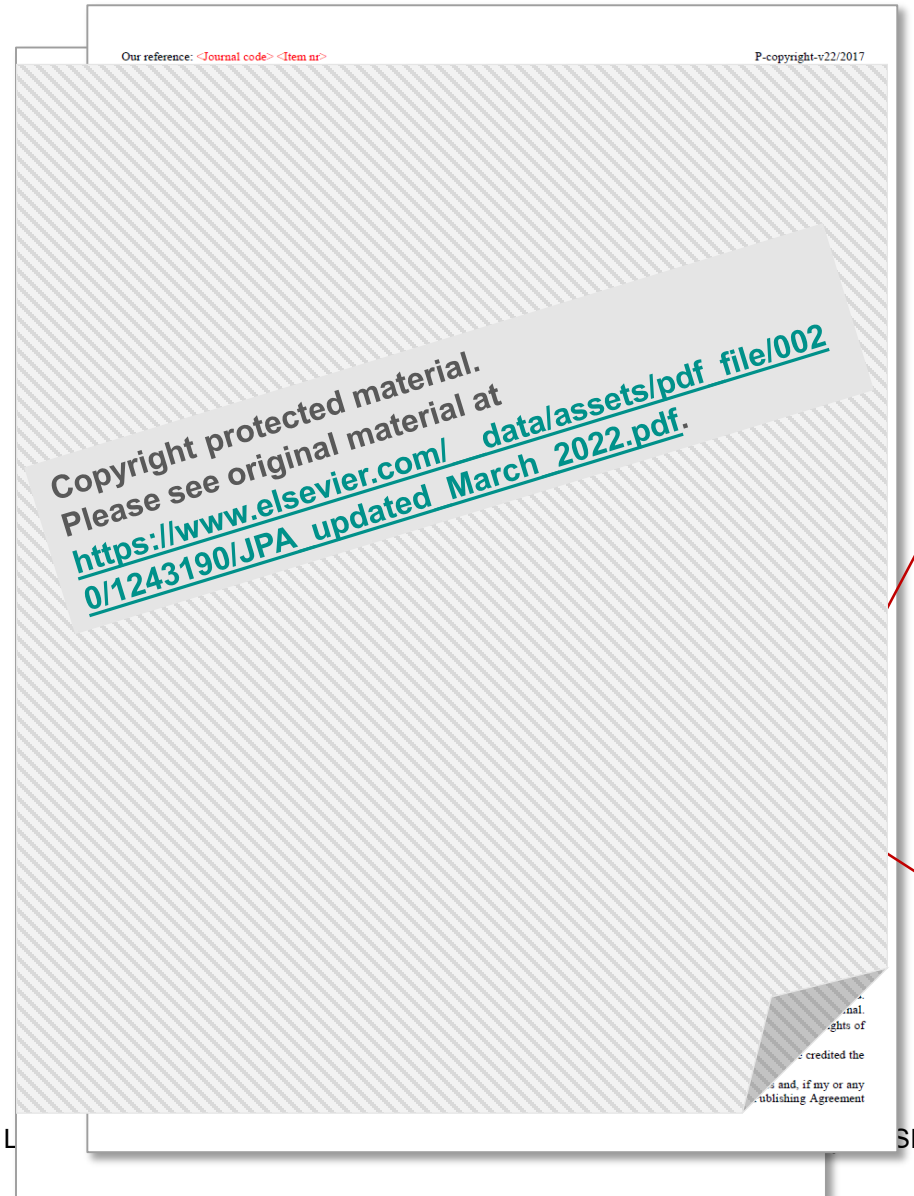
Journal Publishing Agreement - Elsevier



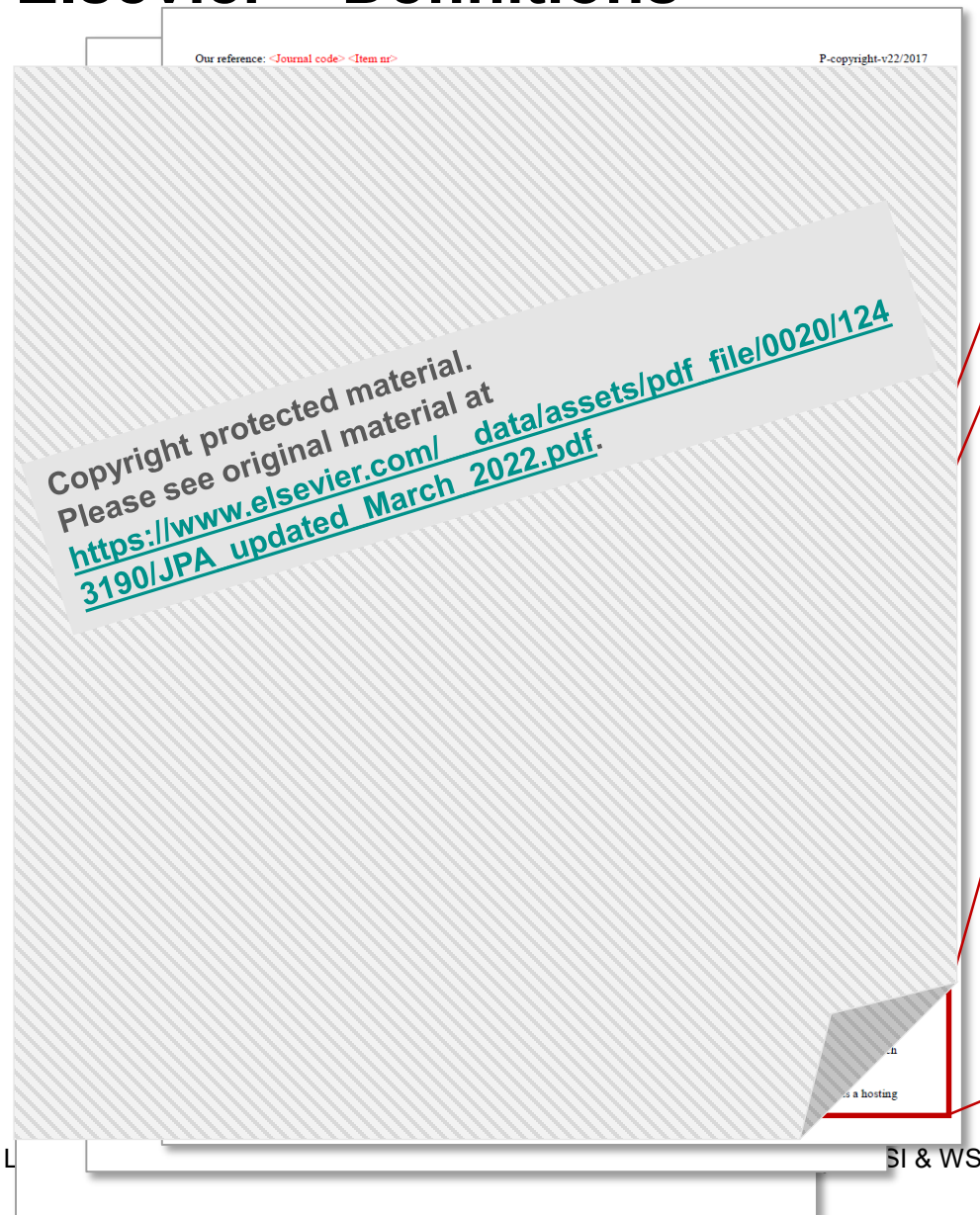
Author Rights for Scholarly Purposes (see 'Definitions' clause below)

(…) include the right to use these different versions of the Article for Scholarly Sharing purposes, which include sharing:

- **the Preprint on any website or repository at any time;**
- **the Accepted Manuscript on certain websites and usually after an embargo period;**
- **the Published Journal Article only privately on certain websites,** unless otherwise agreed by the Copyright Owner.

In the case of the Accepted Manuscript and the Published Journal Article the Author Rights exclude Commercial Use (…), other than **use by the author in a subsequent compilation** of the author's works or **to extend the Article to book length form** or **re-use by the author of portions or excerpts in other works** (…).

Elsevier – Definitions



Accepted Manuscript

(…) should bear a **Creative Commons CC BY-NC-ND** license.

[*see* https://www.lib4ri.ch/research-funders-oa-policies#Remove-the-embargo-for-Elsevier-accepted-manuscripts-in-DORA]

Accepted Manuscript:

(i) immediately on acceptance: (…):

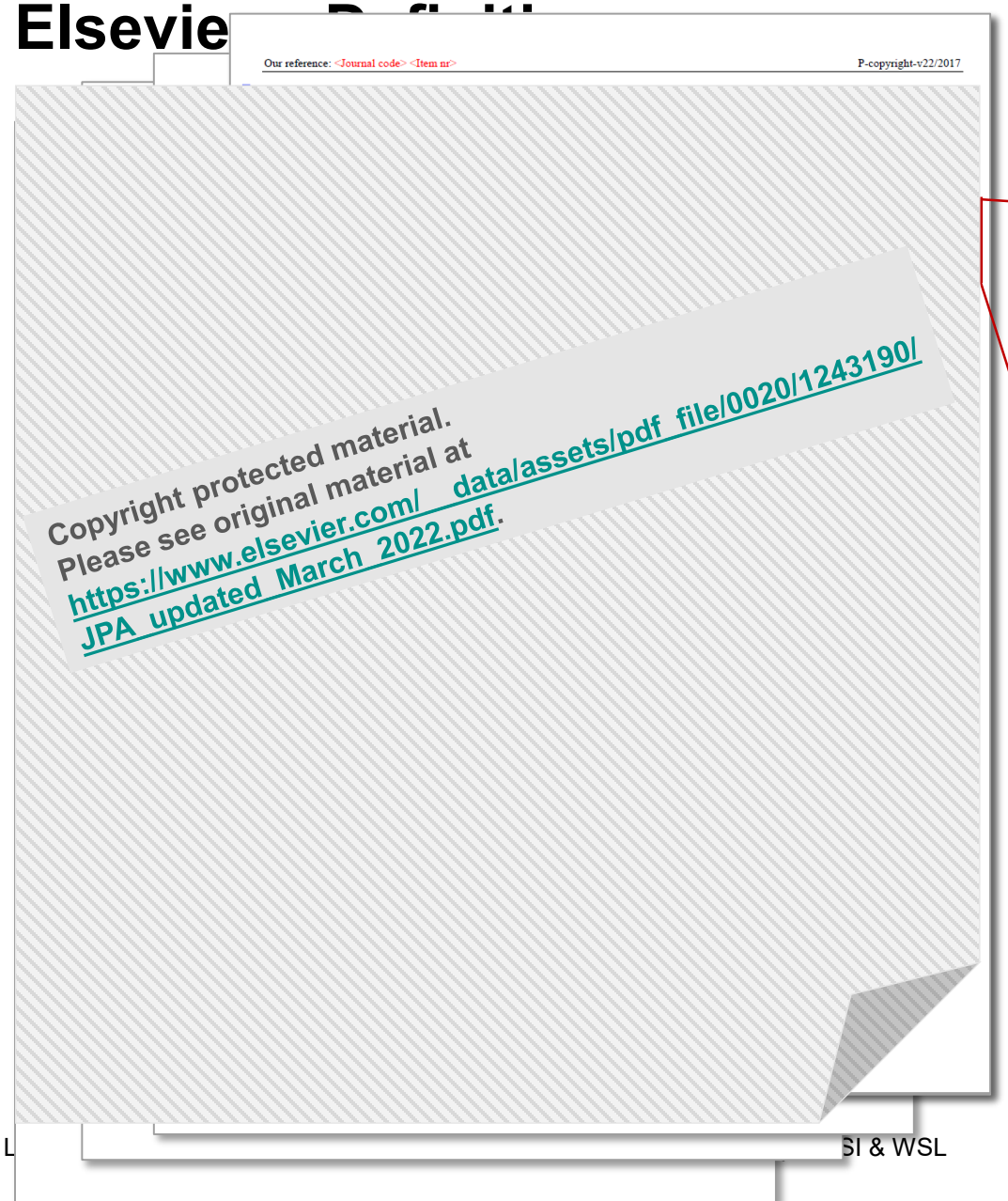
- **via the author's non-commercial personal homepage** or blog (…)

(ii) after the embargo period: an author may share the Accepted Manuscript **via non-commercial hosting platforms (such as the author's institutional repository)** and via commercial sites with which the publisher has a hosting agreement.

To check the embargo period for the journal, go to http://www.elsevier.com/embargoperiodlist

The publisher has agreements with certain funding agencies (…)

Elsevie



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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: https://sparcopen.org/our-work/author-rights/
  - Copyright Addendum Engine: https://labs.creativecommons.org/scholars/
  - EC: https://www.openaire.eu/h2020-oa-guide-model-for-publishing
  - EPFL: https://www.epfl.ch/about/overview/wp-content/uploads/2019/09/Instructions_Author_Amendment_EN.pdf

Re-use in a Scientific Context

How to reuse a copyright protected work?

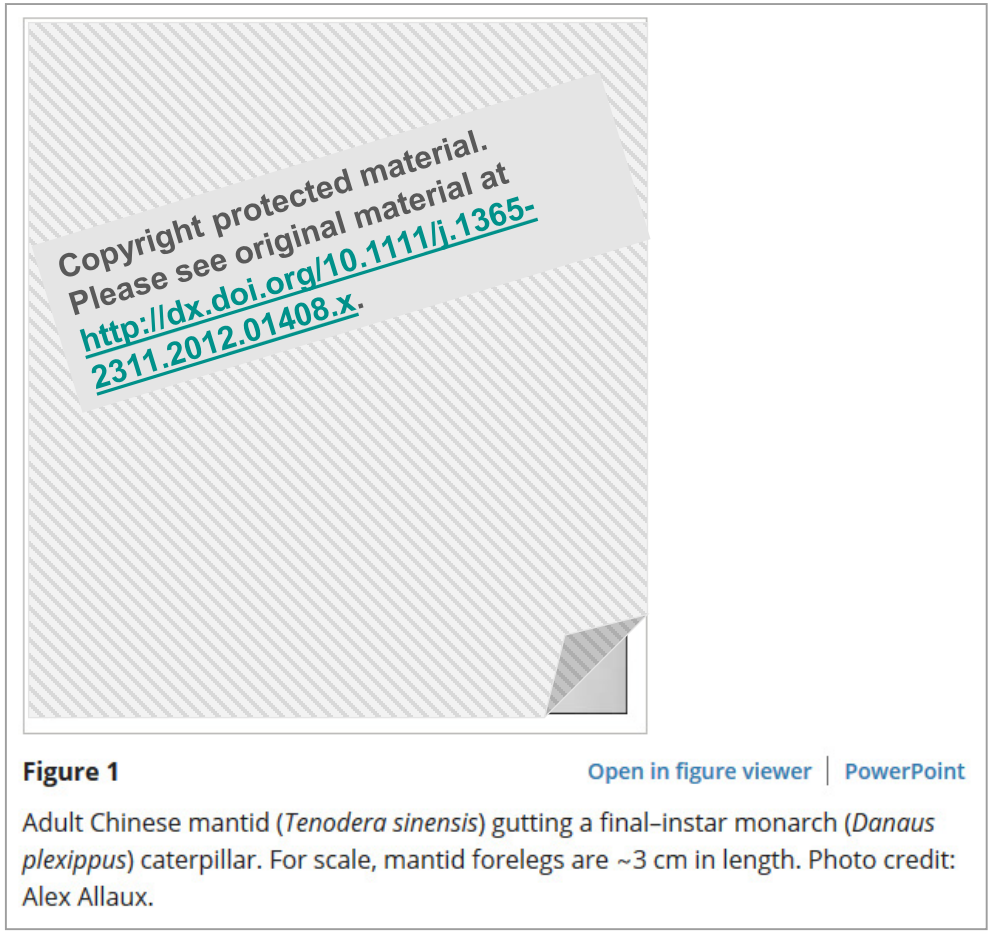

Figure 1 Open in figure viewer | PowerPoint

Adult Chinese mantid (*Tenodera sinensis*) gutting a final–instar monarch (*Danaus plexippus*) caterpillar. For scale, mantid forelegs are ~3 cm in length. Photo credit: Alex Allaux.

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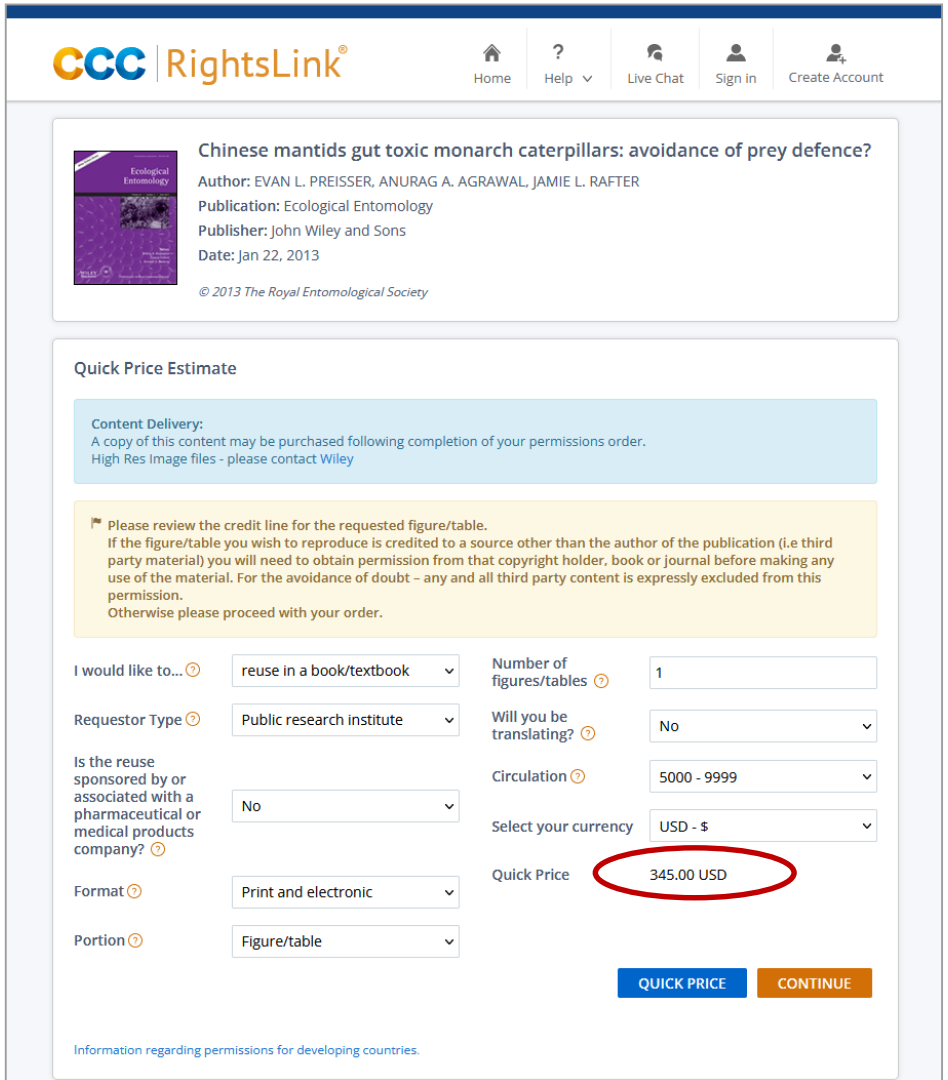
You have to ask for permission



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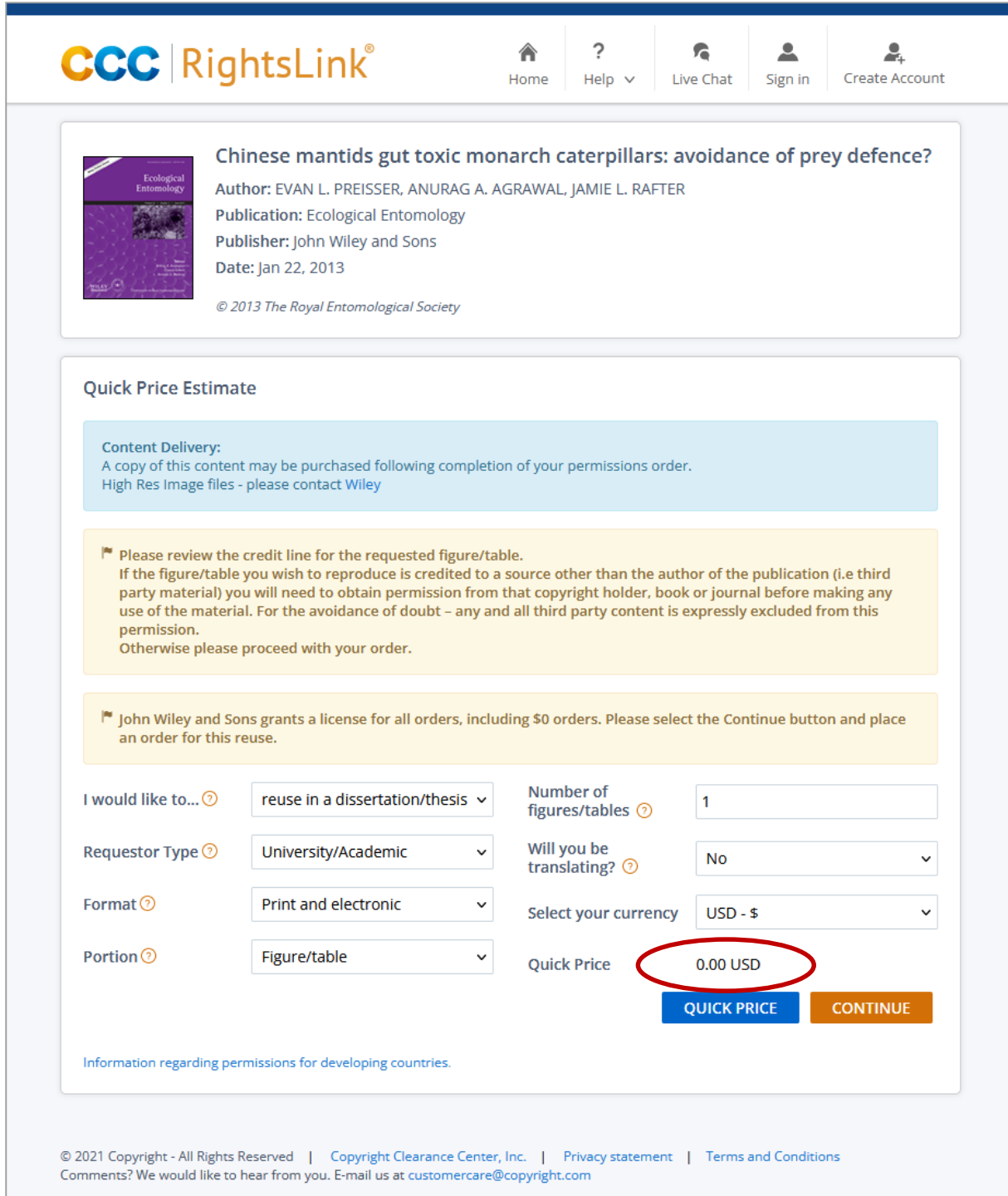

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Chinese mantids gut toxic monarch caterpillars: avoidance of prey defence?

Author: EVAN L. PREISSER, ANURAG A. AGRAWAL, JAMIE L. RAFTER
Publication: Ecological Entomology
Publisher: John Wiley and Sons
Date: Jan 22, 2013

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JOURNAL OF GEOPHYSICAL RESEARCH, VOL. 107, NO. C6, 3060, 10.1029/2001JC000828, 2002

Winter cascading of cold water in Lake Geneva

Ilker Fer[1] and Ulrich Lemmin
Laboratoire de Recherches Hydrauliques, Ecole Polytechnique Fédérale de Lausanne, Lausanne, Switzerland

S. A. Thorpe

2500

ofilings con-
December 1998,
during experiment I and (b) 1200 and 1500 LT, 20 January 2000, during experiment II. The contours are in degrees Celsius. The profiling stations are indicated by arrows. Open circles in Figure 2a show the temperature miniloggers laid at the bottom, as well as the one 2 m off the bottom at 4

0148-0227/02/2001JC000828

ANNUAL REVIEWS

Annual Review of Fluid Mechanics

Convection in Lakes

Damien Bouffard[1] and Alfred Wüest[1,2]

re
r scaled
to a

downward cross-shore transport of 11 times that of the main tributary (Rhône River) during winter. Figure adapted with permission from Fer et al. (2002).

Additionally, the peculiar properties of the density function at low salinities/temperatures leave distinctive traces. In this review, we present these various processes and connect observations with theories and model results.

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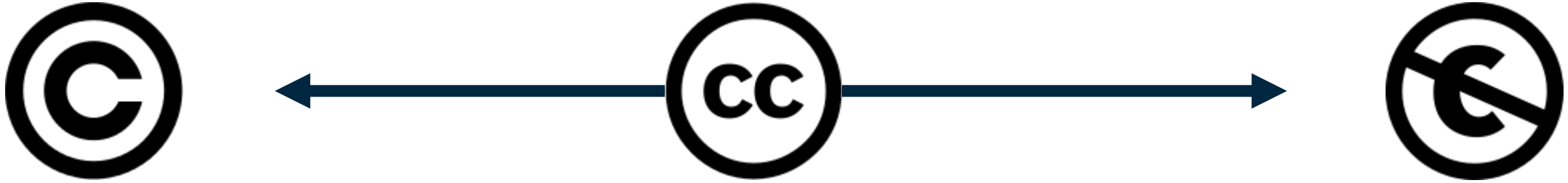

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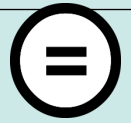	ND	NoDerivatives	the work must not be modified	optional

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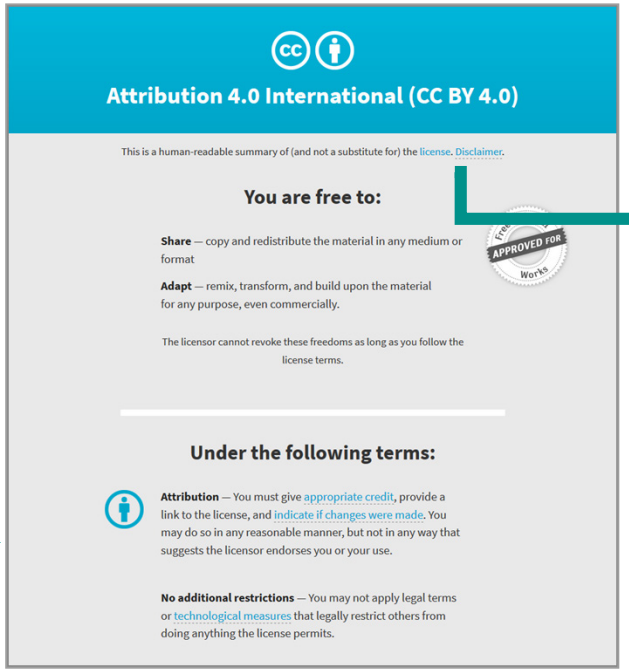


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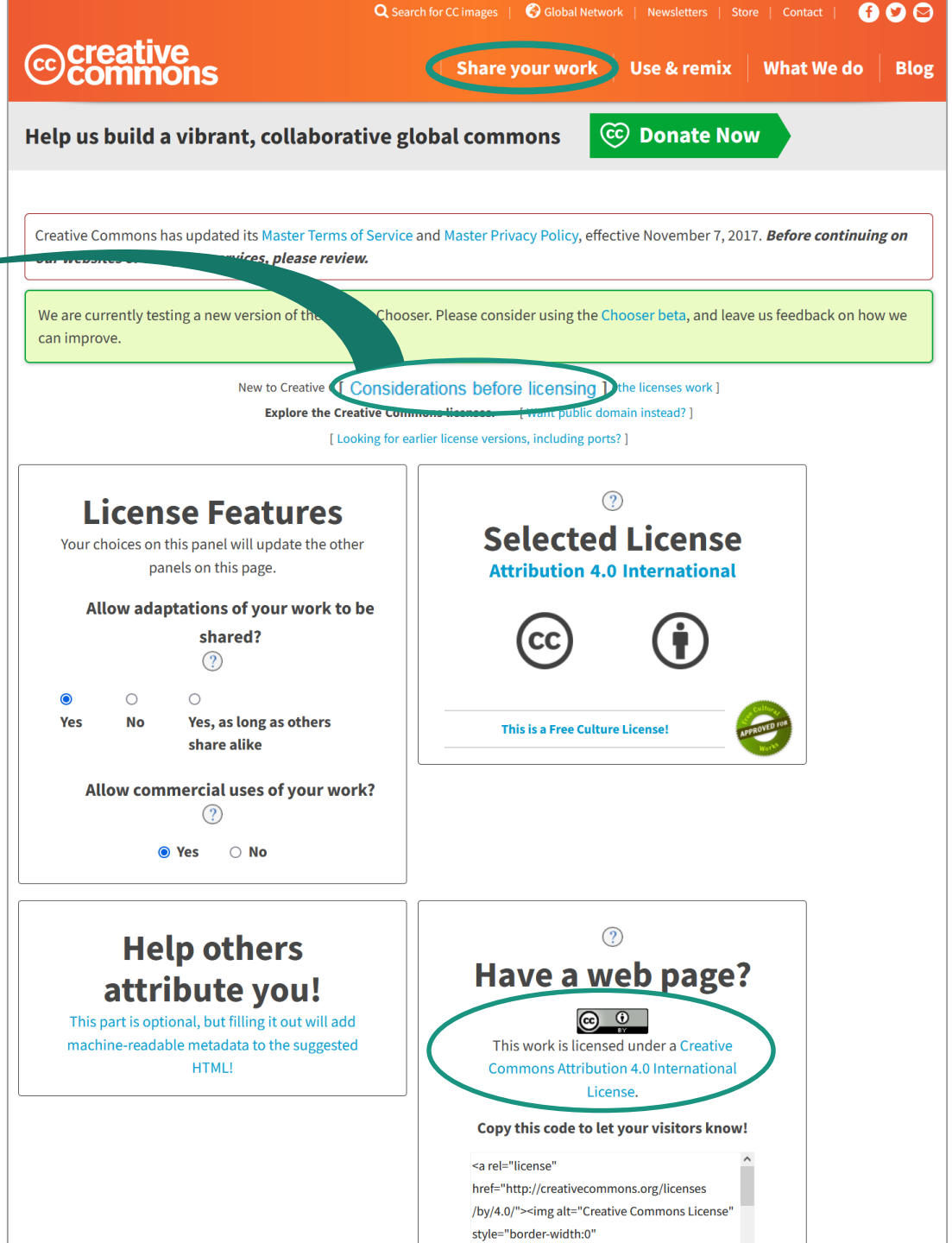

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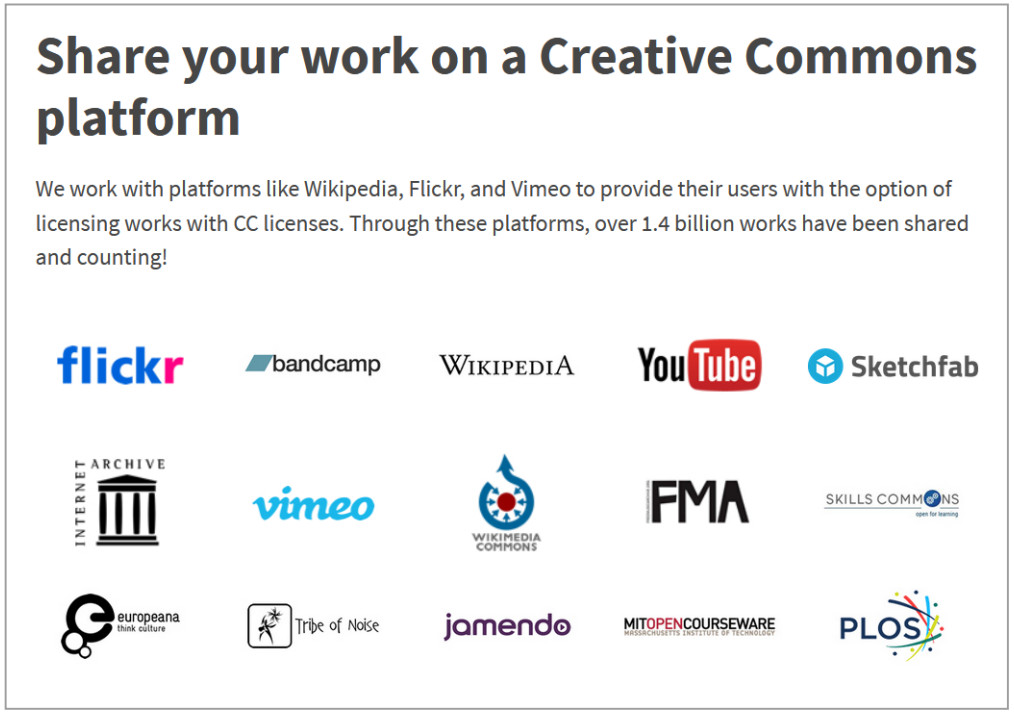

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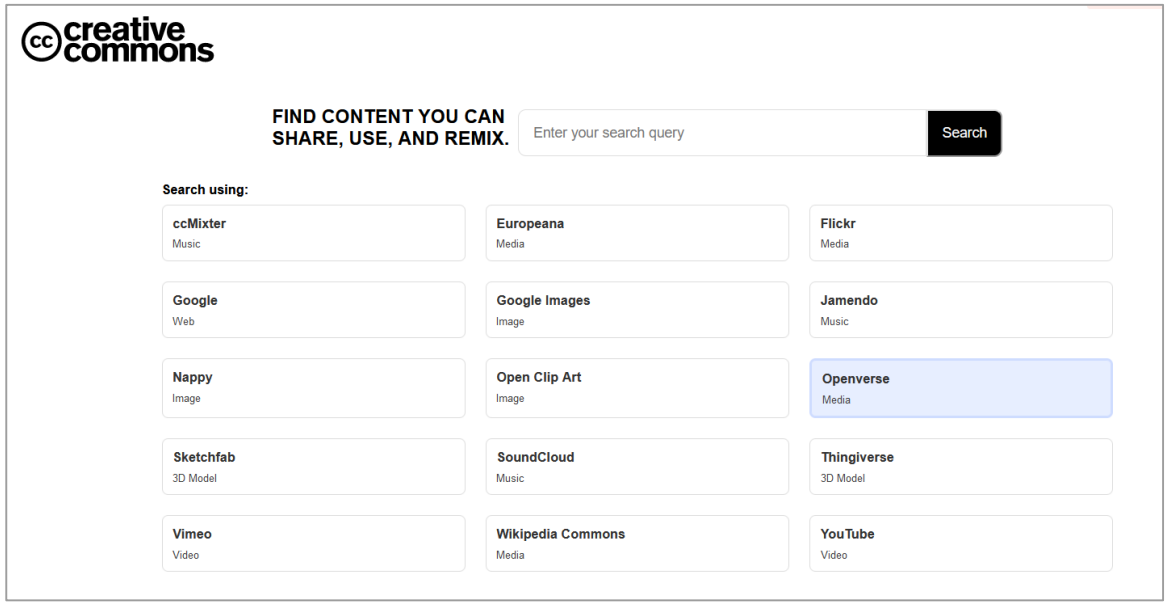

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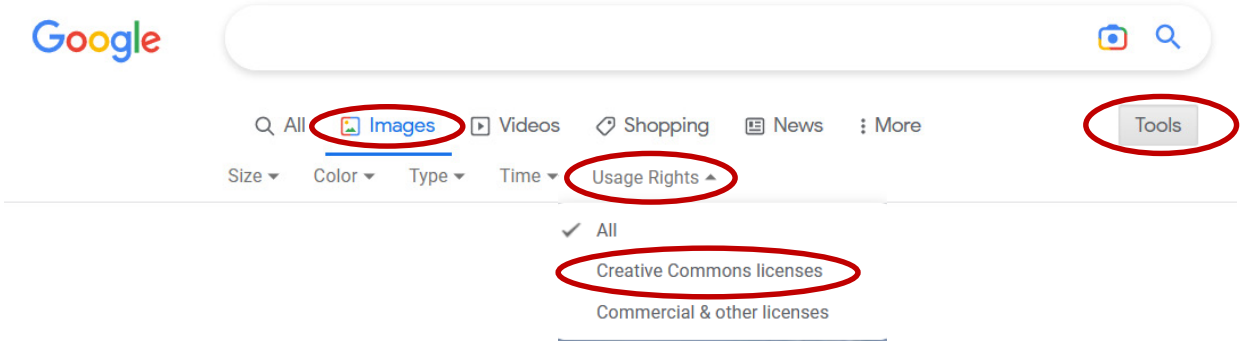

Exercise

Assume, you are creating a presentation with the topic **«Microplastics 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 license for the photograph, you have chosen.

3. How would you cite this photograph in your presentation?

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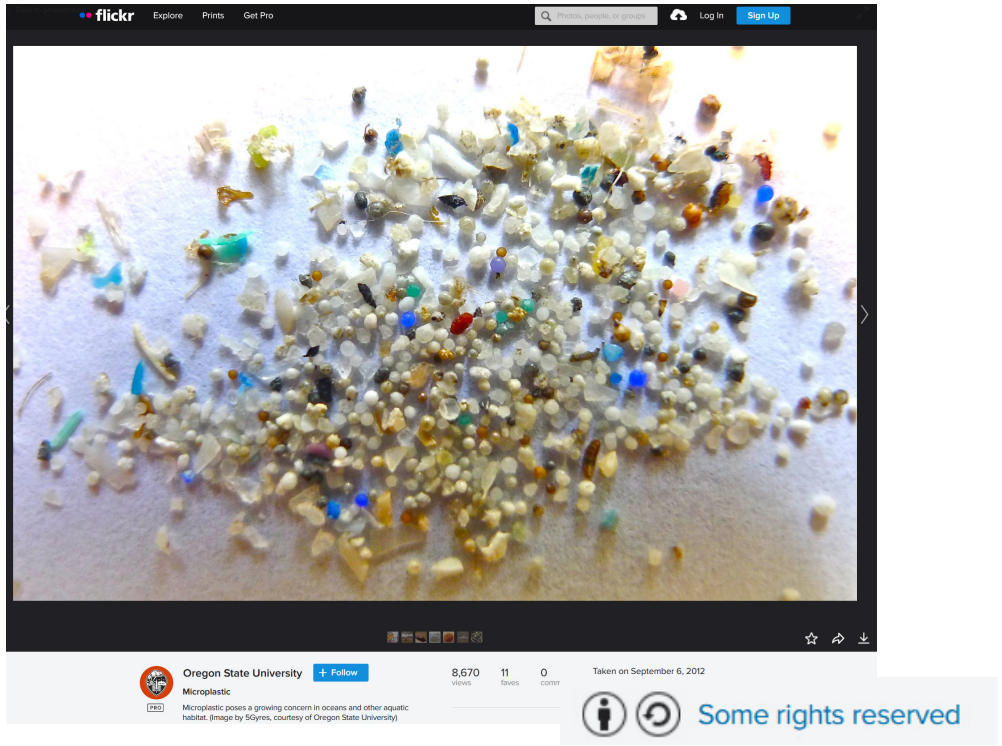

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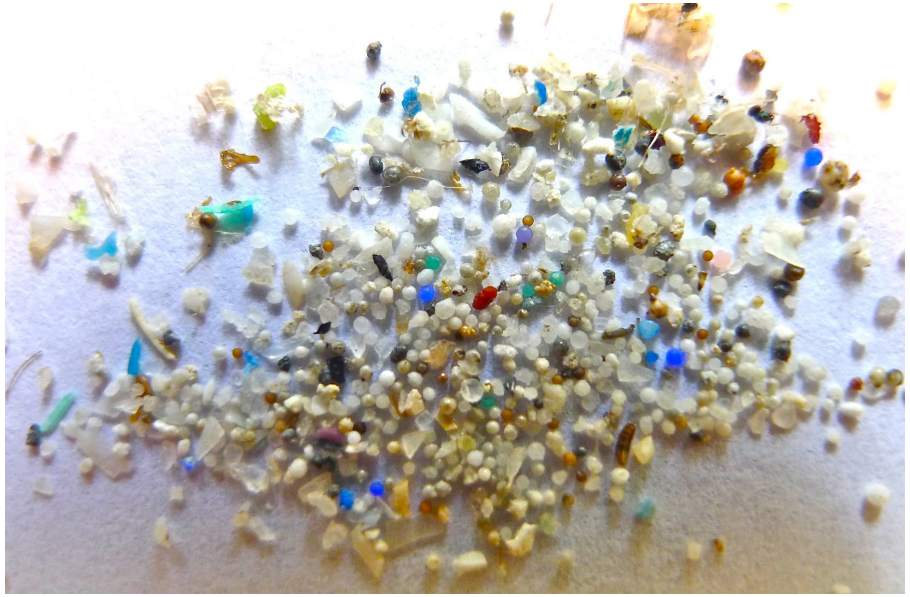

Oregon State University: «Microplastics» https://www.flickr.com/photos/33247428@N08/21282786668, CC BY-SA 2.0

COMMUNICATION

Biological Photocatalysts

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Green-Light-Activated Photoreaction via Genetic Hybridization of Far-Red Fluorescent Protein and Silk

Jung Woo Leem, Jongwoo Park, Seong-Wan Kim, Seong-Ryul Kim, Seung Ho Choi, Kwang-Ho Choi, and Young L. Kim**

Fluorescent proteins often result in phototoxicity and cytotoxicity, in particular because some red fluorescent proteins produce and release reactive ox… as a detrim… for ablatin… produced … into mater… reported th… silk provid… control of … and regen… singlet oxy… photocatal… immediate… is further … concerns a… nanomater…

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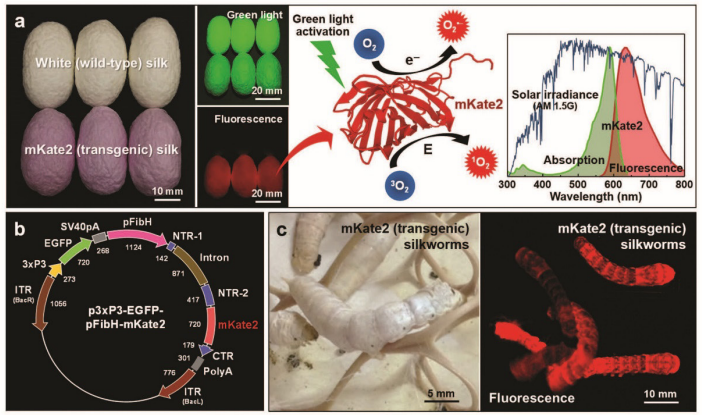

Figure 1. Genetically encoded hybridization of far-red fluorescent protein (mKate2 and PDB ID: 3BXB) and silk for plasmonic photocatalysis-like photosensitization. a) Schematic illustration of reactive oxygen species (ROS)-generating mKate2 (transgenic) silk under green light activation. Superoxide ($O_2^{\bullet-}$) and singlet oxygen ($^1O_2$) are generated by mechanisms of electron (e^-) transfer and energy (E) transfer, respectively. Photographs of white (wild-type) and mKate2 (transgenic) silk cocoons and fluorescent image of mKate2 silk cocoons. Green light belongs to the peak wavelength range of the solar spectrum. b) Construction of transfer vector p3xP3-EGFP-pFibH-mKate2 for mKate2 silkworm transgenesis. c) Photograph and fluorescent image of mKate2 (transgenic) silkworms.

acteristics of RFP suggest that semiconductor nanocrystals or conjugated nanoparticles for plasmonic photocatalysis can be replaced by phototoxic RFP.

Some fluorescent proteins participate in Type I and Type II photosensitization reactions.[7] Predominant ROS generated by fluorescent proteins depends on the type of photosensitization reactions and the concentration of local molecular oxygen (i.e., electron acceptor). For example, (enhanced) green fluorescent protein, (E)GFP typically produces singlet oxygen ($^1O_2$) via Type II

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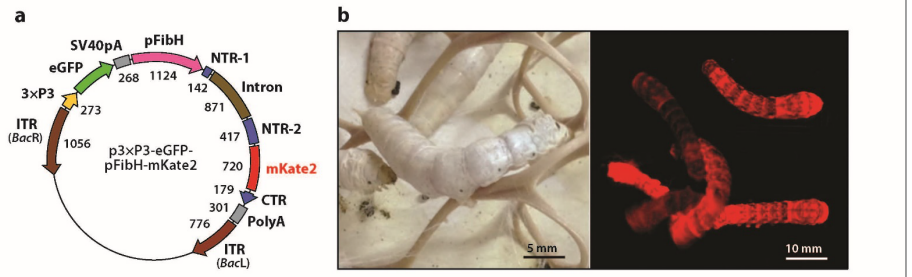

Figure 1

Representative genetic fusion of fluorescent proteins (e.g., mKate2) and silk (161). (*a*) Construction of transfer vector p3×P3-eGFP-pFibH-mKate2 for mKate2 silkworm transgenesis using a gene-splicing *piggyBac* transposase method. For hybridization of mKate2 and silk, the mKate2 gene is fused with N-terminal and C-terminal domains of pFibH. The nucleotide sequences of the pFibH NTR and CTR are derived from GenBank accession number AF226688. (*b*) (*left*) Photograph and (*right*) fluorescent image of mKate2 (transgenic) silkworms. Abbreviations: CTR, C-terminal region (179 bp); eGFP, enhanced green fluorescent protein; intron, first intron (871 bp); ITR, inverted repeat sequences of *piggyBac* arms; mKate2, monomeric far-red fluorescent protein (720 bp) derived from *Entacmaea quadricolor*; NTR-1, N-terminal region 1 (142 bp); NTR-2, N-terminal region 2 (417 bp); pFibH, fibroin heavy-chain promoter domain (1,124 bp); PolyA, poly(A) signal region (301 bp); 3×P3, 3×P3 promoter (273 bp); SV40, SV40 polyadenylation signal sequence (268 bp).

Annu. Rev.
First publis… March 11, 2…
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physical and biological properties that typical synthetic materials do not exhibit. These attributes have prompted a wide variety of silk research, including genetic engineering, biotechnological synthesis, and bioinspired fiber spinning, to produce silk proteins on a large scale and to further enhance their properties. In this review, we describe the basic properties of spider silk and silkworm silk and the important production methods for silk proteins. We discuss recent advances in reinforced silk using silkworm transgenesis and functional additive diets with a focus on biomedical applications. We also explain that reinforced silk has an analogy with metamaterials such that user-designed atypical responses can be engineered beyond what naturally occurring materials offer. These insights into reinforced silk can guide better engineering of superior synthetic biomaterials and lead to discoveries of unexplored biological and medical applications of silk.

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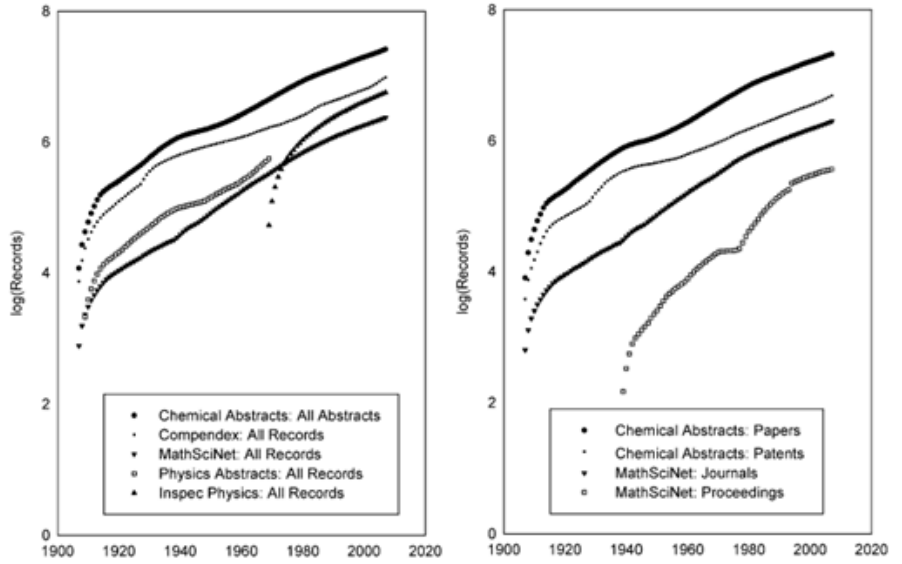

Fig. 2 Cumulative number of records for nine databases 1907–2007 (semi logarithmic scale)

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