
legal issues and rights and stuff, or: how about those CC licenses? and other questions

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I am not a lawyer.

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uhm... OK?

what now?

...is this legally necessary?

Agenda (not necessarily in this order)

- 👤 Copyright I & II & I&II: the Janus-faced researcher
- 👤 Digital space & national borders
- 👤 So many rights, so many restrictions: usage rights, data privacy, personal rights, media law
- 👤 Content types: photographs, scans, texts, data, code,.....
- 👤 Creative commons. Licenses, benefits, problems, pitfalls (also: how I managed to do this presentation without violating laws)
- 👤 Why creative commons?, and what else is out there?
- 👤 Resources

Universal Declaration of Human Rights

Article 27

1. Everyone has the right **freely** to **participate** in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.
2. Everyone has the right to the **protection of the moral and material interests** resulting from any scientific, literary or artistic production of which he [sic] is the author.



International copyright treaties:

As full of holes as Swiss cheese? (inspired by The Big Bang Theory)

World Intellectual Property Organisation (WIPO):

[Berne Convention for the Protection of Literary and Artistic Works](#) ("Berne Convention", 1886 / 1979)

World Trade Organisation (WTO):

[Trade-Related Aspects of Intellectual Property Rights](#) (TRIPS, 1994 / 2001)

What is a “work”, anyway?

Switzerland

- ☺ ... geistige Schöpfungen ..., die individuellen Charakter haben (**of individual nature**)
- ☺ Sammelwerke

Germany

- ☺ ... persönliche geistige Schöpfungen (**personal**)
- ☺ Sammelwerke und Datenbankwerke

Austria

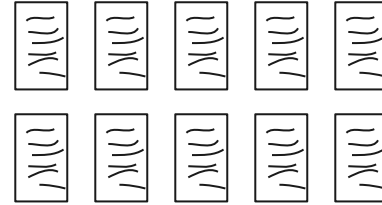
- ☺ ... eigentümliche geistige Schöpfungen (**singular**)
- ☺ Sammelwerke und Datenbankwerke

Can you translate “Urheber*” for me?

Urheber*recht



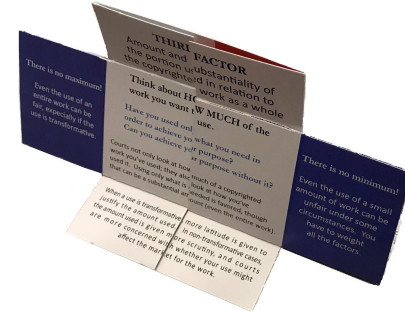
vs



copyright

Fair use - that makes things simpler, doesn't it?

- ❌ purpose of use - not commercial, non-profit purposes, transformative works
- ❌ nature of work - factual, published, original work
- ❌ amount used - necessity of the transformation
- ❌ market effects - minimal harm to creative markets



...is this a fair use
of a flyer about fair use?

OK, copyright, got it. That's all I need to know, right?

I'm hosting an open science website and want to involve citizens so they can contribute. So...?

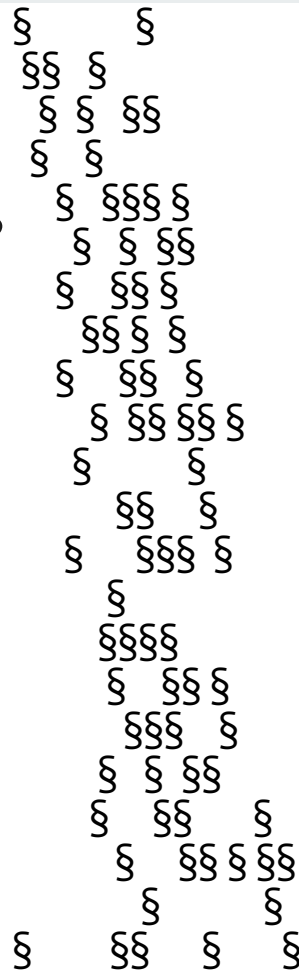
[General Data Protection Regulation \(GDPR\)](#)

I took a photo of my citizen science event and want to put it on my open science website. So...?

Recht am eigenen Bild (GG / EU-GRC)

I work with video recordings from a TV station archive, and luckily I got consent to use them from the authors and directors. So...?

verwandte Schutzrechte (UrhG)



print, printer, imprint

How to host a open science website without hosting it as private person [within German legal regulations]?

▲ +2

▼ votes

179 views

asked Oct 22, 2017 in Open Science by Titoschmi (20 points)

We have prepared an open science database project with a website. The project is not owned by a university, and should not be hosted on a university server. Are there suggestions on how to run such a website, while being not personally eligible for legal issues - in case any occur? Also it would be an aim to avoid having to publish your private home address in the impressum.

Is it a reasonable solution to run the webpage as a private person / founding a non-profit company / founding a association (Verein)?

answer

comment



Anbieterkennzeichnungspflicht (§5 TMG) (provider identification obligation)

Content types and their legal specifics

 data

 code

 photographs

 facsimiles / scans

 other images & graphics

 hardware

I'm working on this very special material. So...?

Data are facts, and facts are not works, though I've been working on my database for two years now. So...?

Determining what license to use for my code so that it is compatible with the licenses on the code I reused breaks my brain. So...?

I can't figure out who took this photo of my research subject that I totally need to put on my project website. So...?

Goethe's been dead for 200 years and I want to put this beautiful manuscript on the internet. So...?

My colleague published this awesome graph in *Nature*, I have to show it at my next conference presentation. So...?

I'm building a geo-technical device using open methods and don't want it to be patented by me or anyone. So...?

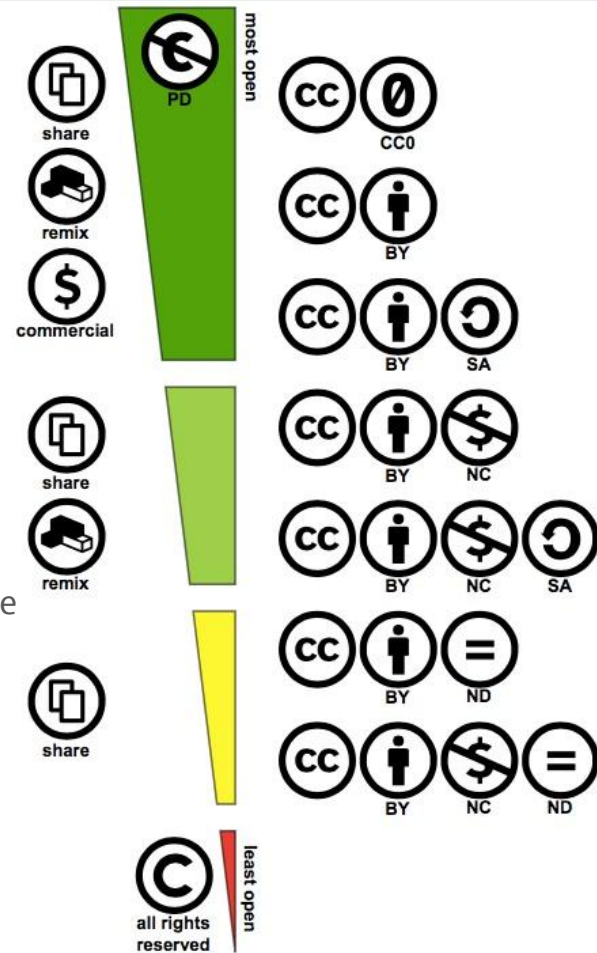
CC, CC benefits and CC pitfalls

My employment contract says that my university owns all economic rights to whatever I do at work. But if I use CC, I can make that go away, right?

Economy is evil, so I'll use the NC module. That's a good idea, right?

I'm working with historical sources about Nazi Germany. I'll use the ND module to prevent abuse by people with questionable political agendas, right?

I'm an Open Science advocate, so I'll use the SA module to ensure everyone shares their content as openly as I do. Ain't that smart?



Credits

👤 Fonts used: Alegrya, Alegrya sans, Actor

👤 images: all  via [Wikimedia Commons](https://commons.wikimedia.org/) or 

👤 parts of this presentation were copied from or inspired by previous presentations prepared together with Walter Scholger

👤 my personal authority on all things legal is Pawel Kamocki

👤 oh... one thing I forgot:



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VolkswagenStiftung



austrian
centre for
digital
humanities

Everyone is using CC. Isn't there something more fancy?

 [Open Data Commons](#)

 [Digital Peer Publishing Licenses](#)

 my super-fancy individual license written up by my personal team of 20 international copyright lawyers

Where to turn

 [Europeana Available Rights Statement](#)

 [Public License Selector](#)

 [Creative Commons](#)

 [CLARIN](#) Legal Issues Committee (CLIC) → [CLARIN Legal information platform](#)

 [DARIAH](#) WG on Ethical and Legal Issues in the Digital Arts and Humanities (ELDAH) (under construction)

Read this.

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