

University of Trento

Crash Course on research funding, intellectual property and start up creation

Tuesday, 1 March 2016

Copyright Management within the University

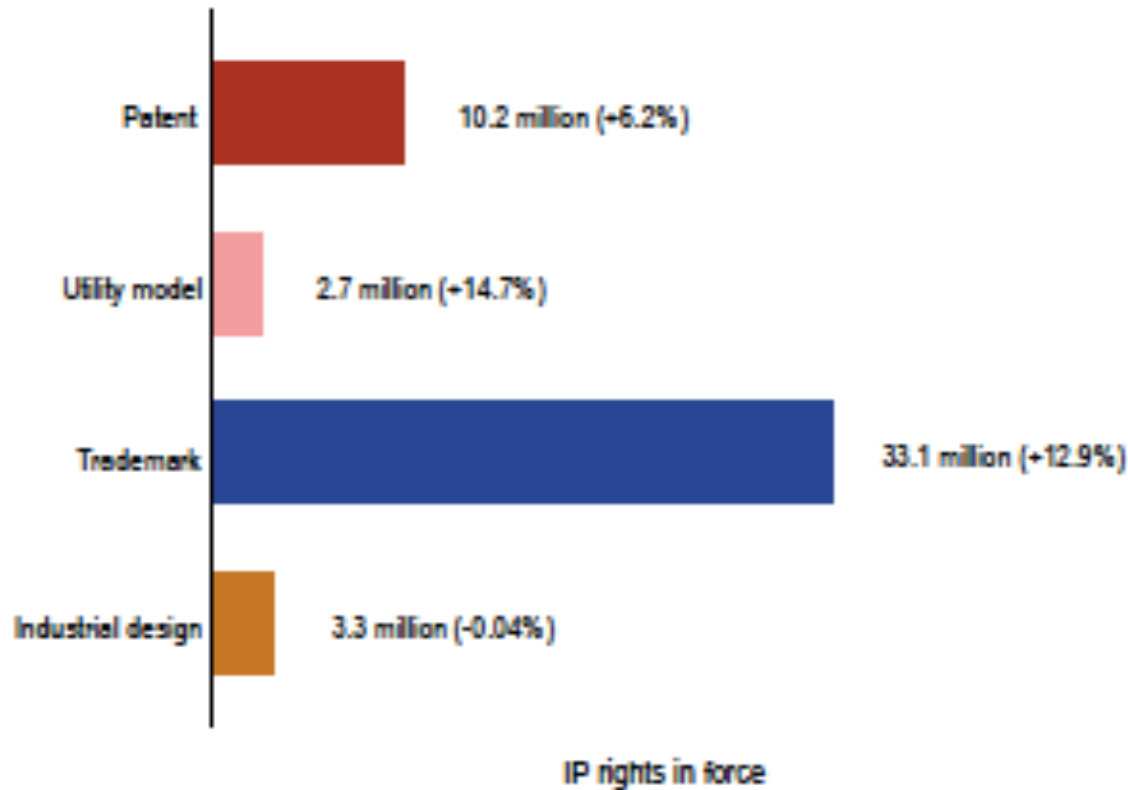
Valentina Moscon

“...The empires of the future are the empires of the mind...”

(Sir Winston Churchill, 6 September 1943)

WIPO Statistic 2015

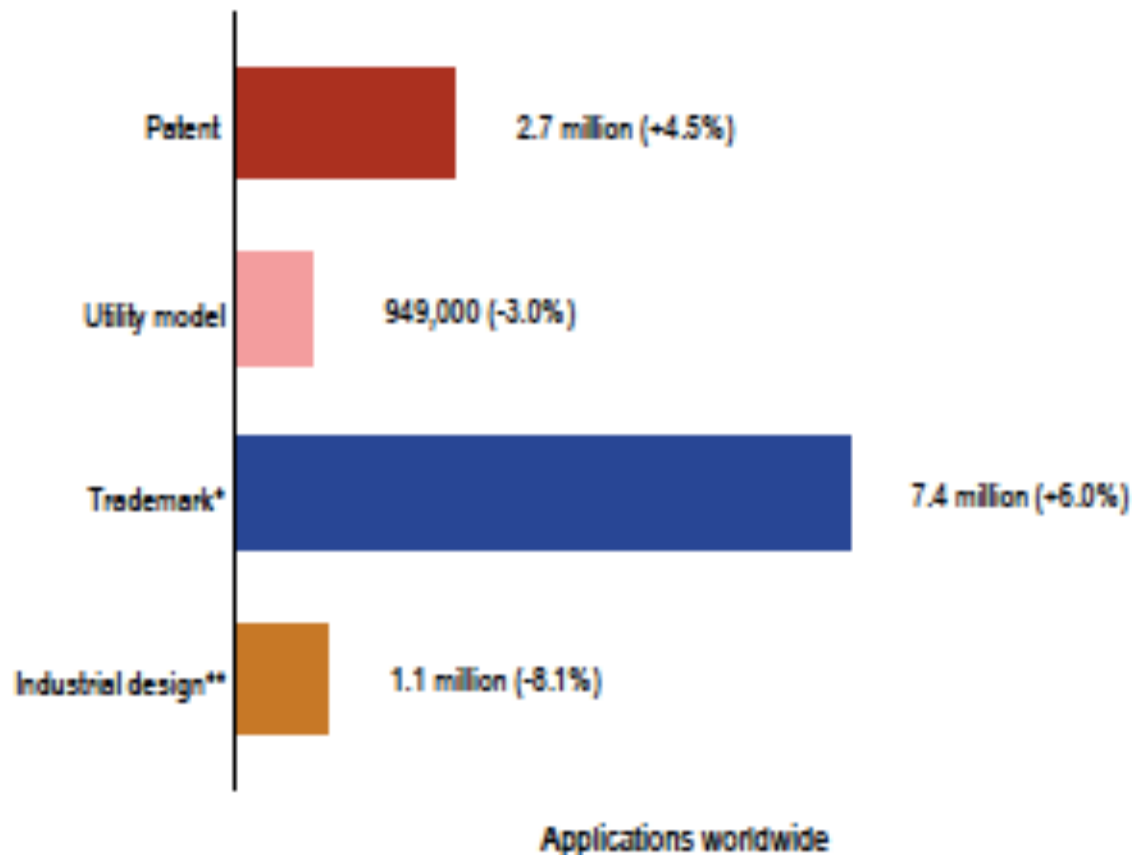
A5 IP rights in force, 2014



Source: WIPO Statistics Database, October 2015.

WIPO Statistic 2015

A1 Total applications, 2014



Agenda

1) Copyright Fundamentals

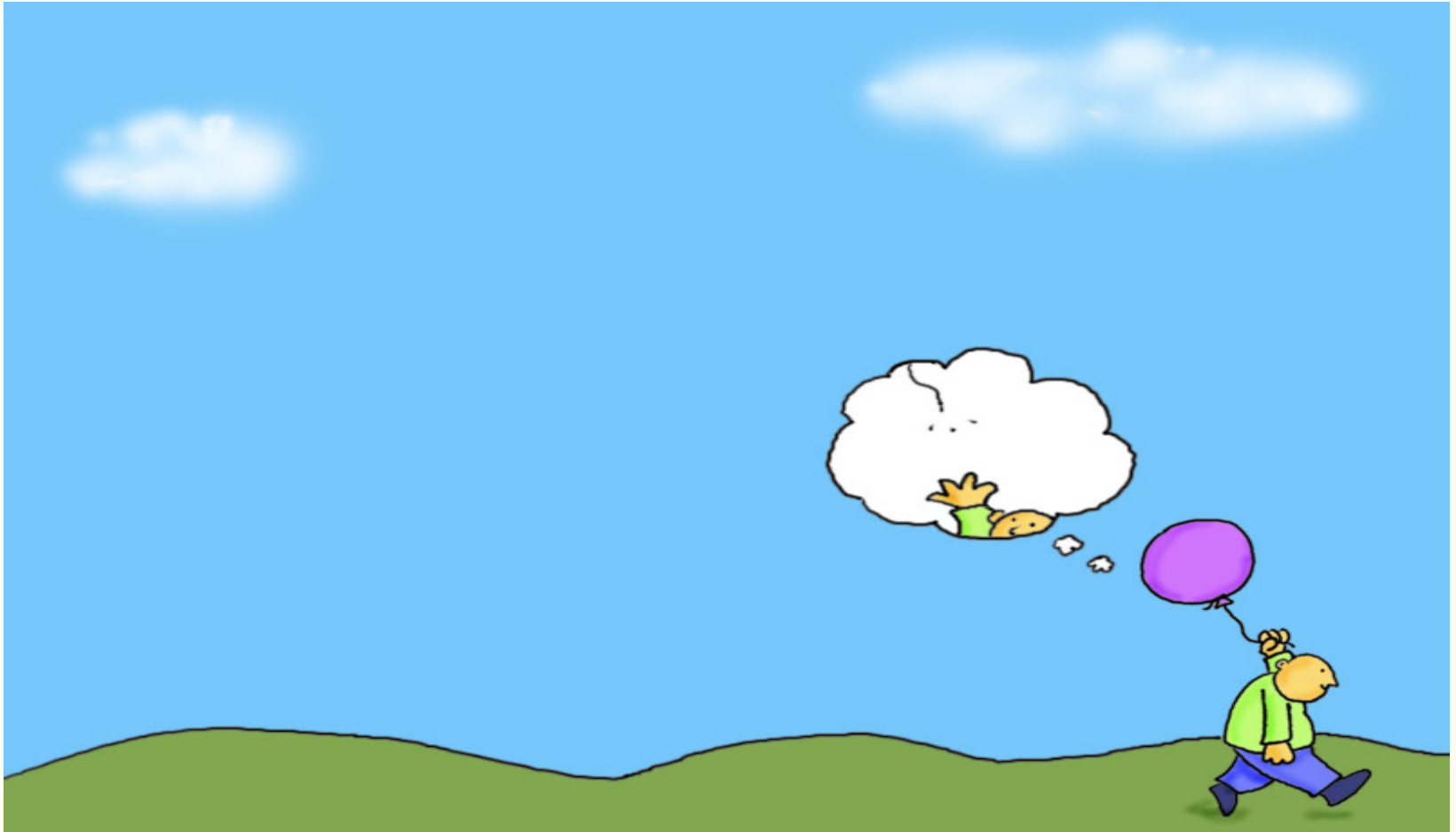
2) Copyright Circulation

3) Open Access

1

Copyright Fundamentals

Governing Ideas



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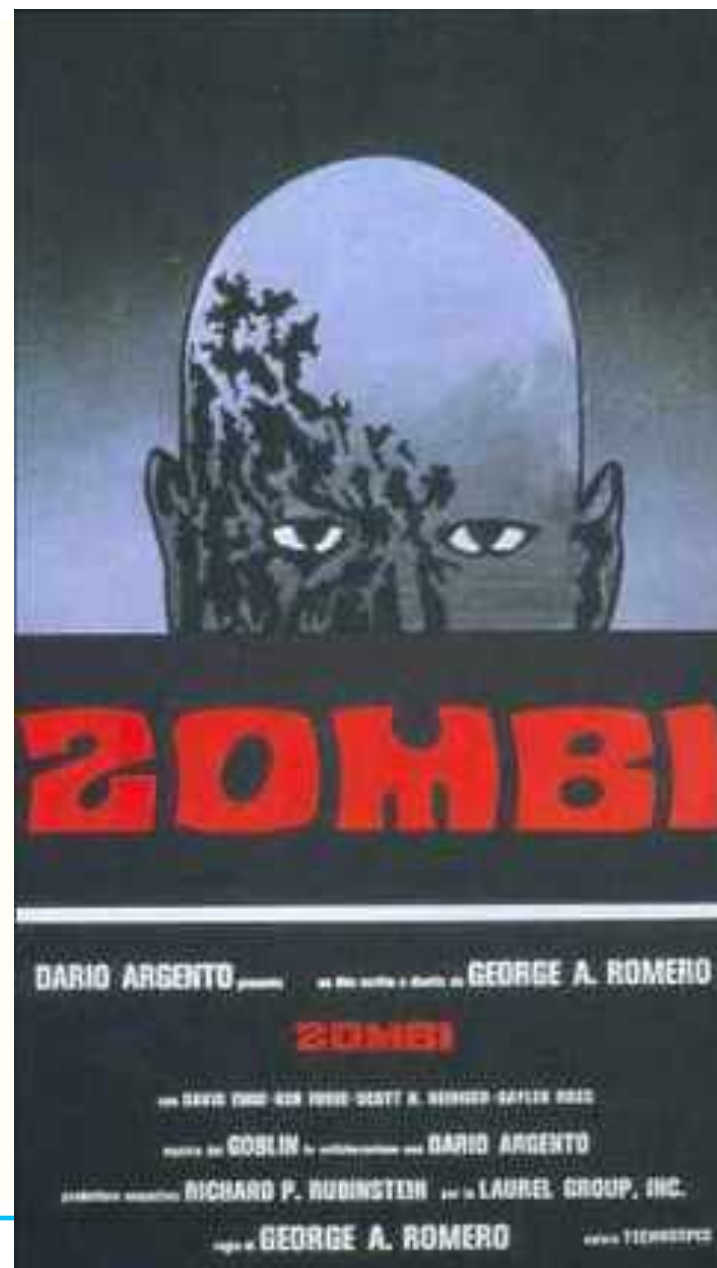
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Intellectual Property (IP)

... includes:

- Patent Law (Inventions)
- Trademark Law (Trademarks)
- Copyright Law (Original Works of Authorship)

Copyright Law



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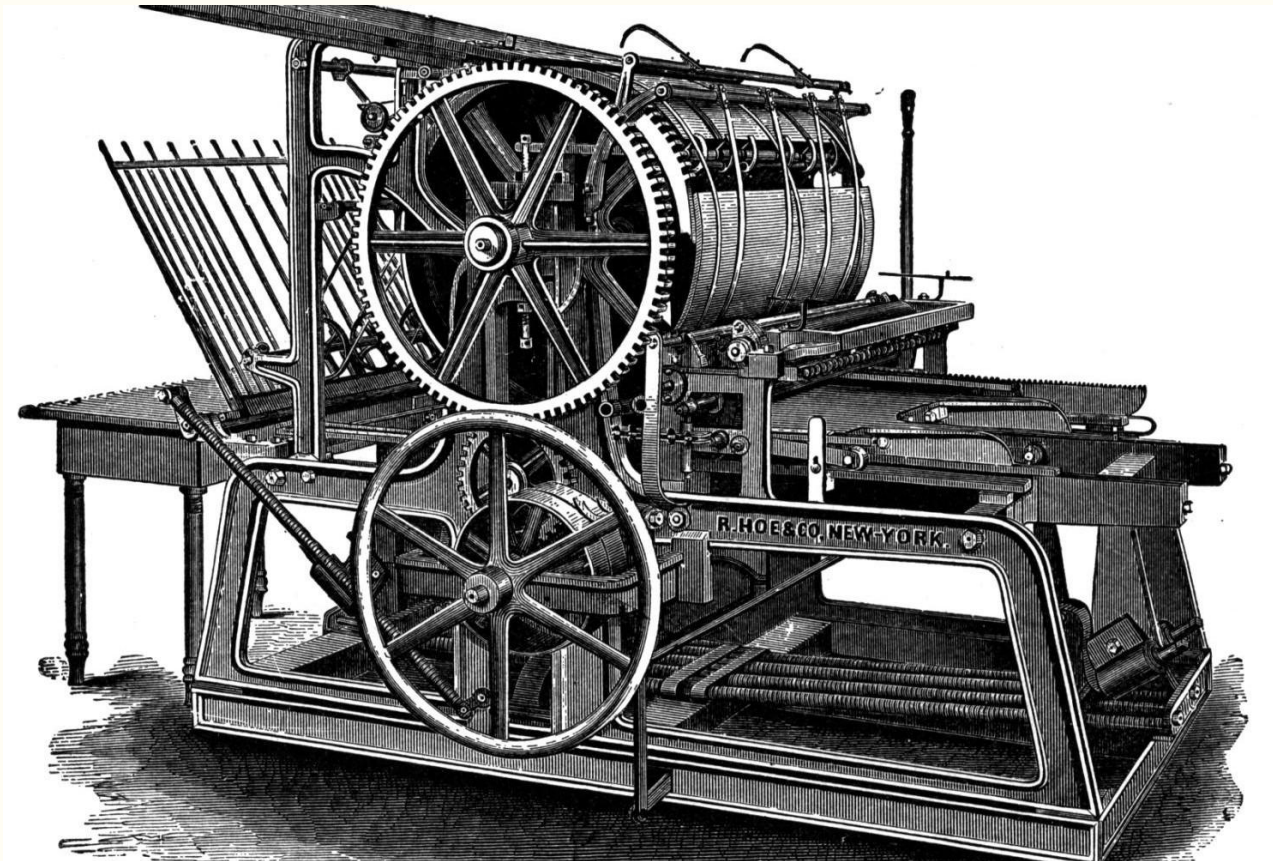
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Law No. 633 of April 22, 1941, for the Protection of Copyright and and Neighboring Rights

International Law
EU Law

However, Copyright is a recent law

- Unlike the property on material things (which dates back to the dawn of time, which means the earliest forms of human legal organization).
- Copyright is a recent law
- Before printing:
 - Classic world: Greece and Rome
 - Medieval Age: authors (and scribe), painters, sculptors, architects, musicians and theater



A New Technology, a New Business Model, a New Law

Statute of Anne

(261)

Cup 19

Anno Octavo

Annæ Reginae.

An Act for the Encouragement of Learning, by Vesting the Copies of Printed Books in the Authors or Purchasers of such Copies, during the Times therein mentioned.



Whereas Printers, Booksellers, and other Persons have of late frequently taken the Liberty of Printing, Reprinting, and Publishing, or causing to be Printed, Reprinted, and Published Books, and other Writings, without the Consent of the Authors or Proprietors of such Books and Writings, to their very great Detriment, and too often to the Ruin of them and their Families: For Preventing therefore such Practices for the future, and for the Encouragement of Learned Men to Compose and Write useful Books: May it please Your Majesty, that it may be Enacted, and be it Enacted by the Queens most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons in this present Parliament Assembled, and by the Authority of the same, That from and after the

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Copyright Law

- The Statute of Anne (1710): “An act for the encouragement of learning, by vesting the copies of printed books in the authors or purchasers of such copies, during the times therein mentioned”
- U.S. CONST. art. I, Sec. 8, cl. 8 «The Congress shall have Power . . . To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries»

The Statute of Anne – The Authors' Copyright

- 1710 - the Statute of Anne:
 - Declamation: "The encouragement of learning" (no reference to "property" contained in the preamble of the Bill)
 - Operational rules:
 - "The sole liberty of printing and reprinting books ..."
 - Time limits: 14 years from publication plus another 14 if the author is still alive (for works already published: 21 years from 1710)
 - Registration
 - Penalties

The Extension and Globalization of Copyright Law

- 1883: draft of the International Copyright Agreement
- 1886: Berna Convention for the Protection of Literary and Artistic Works
- 1893: creation of the Bureau for the Protection of Intellectual Property. In 1967, it becomes the World Intellectual Property Organization (WIPO)
- April 15th, 1994: Annex 1C to the Marrakesh Agreement: Trade Related Aspects of Intellectual Property Rights; GATT becomes the World Trade Organization
- 1996: WIPO Copyright Treaty
- ...

Public Aim



Knowledge Development

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How

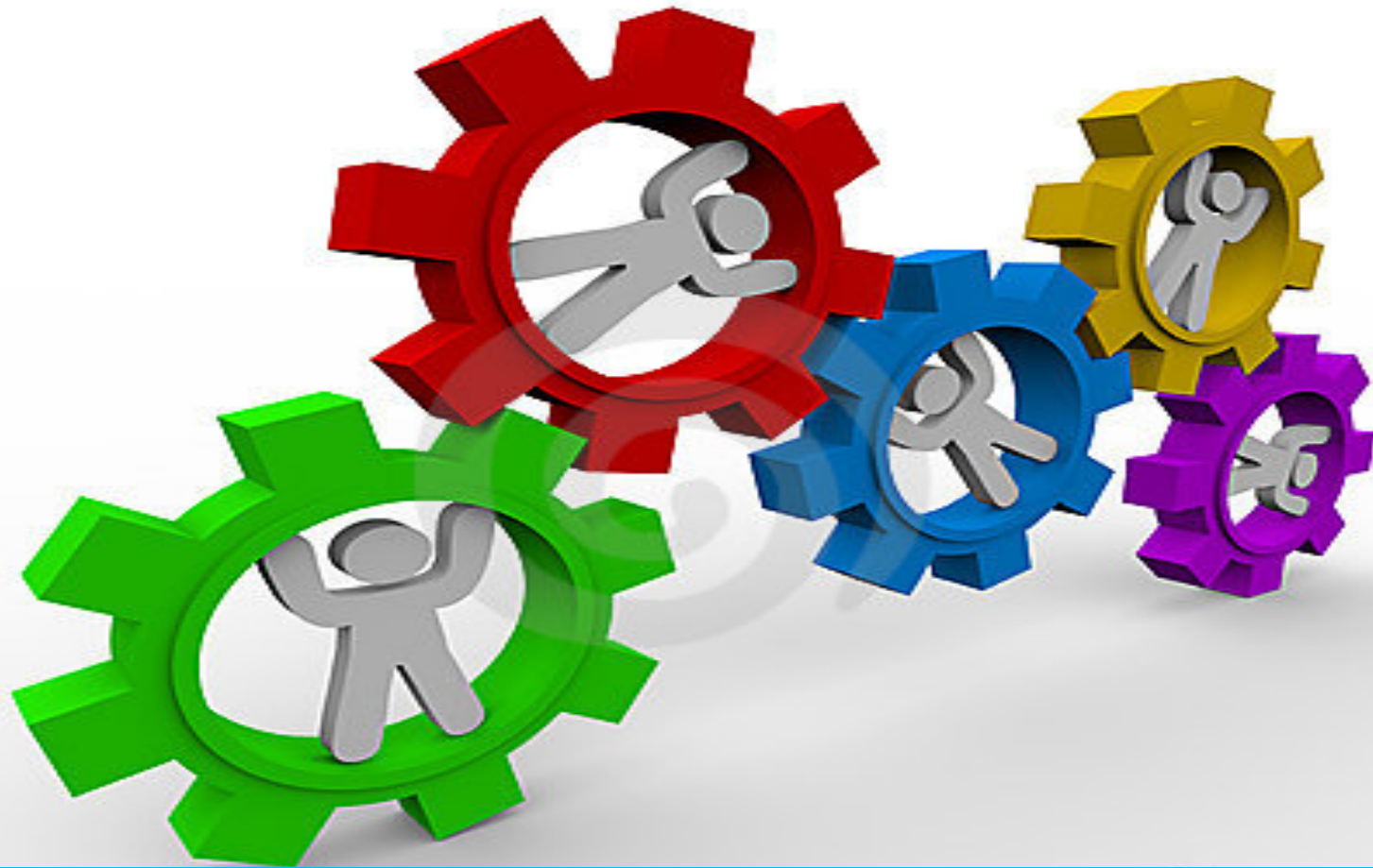
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Mixing Different Tools



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The case of Scientific Research



Freedom of Science or Market Decisions?



Boots Pharmaceutical vs.
Dr Betty Dong



The study results were “not be published or otherwise released without written consent” of the company

Original Contributions

Bioequivalence of Generic and Brand-name Levothyroxine Products in the Treatment of Hypothyroidism

Betty J. Dong, PharmD; Walter W. Hauck, PhD; John G. Gambertoglio, PharmD; Lauren Gee, MPH;
John R. White, PharmD; Jeff L. Bubp, PharmD; Francis S. Greenspan, MD

Objective.—To compare relative bioavailability of Synthroid, Levoxine (Levoxine has been renamed Levoxyf), and 2 generic levothyroxine sodium preparations.

Design.—Single-blind (primary investigators blinded), randomized, 4-way cross-over trial.

Setting.—Ambulatory care.

Patients.—Twenty-two women with hypothyroidism who were clinically and chemically euthyroid and were receiving levothyroxine sodium, 0.1 or 0.15 mg.

Interventions.—All patients received each of the 4 levothyroxine products for 6-week periods in the same dosage as their prestudy regimen with no washout period. The order of the drug sequences was randomly determined before study initiation.

Main Outcome Measures.—Area under the curve, time to peak serum concentrations, and peak serum concentrations of thyroxine, triiodothyronine, and free

LEVOTHYROXINE sodium is a life-long medication taken by a large proportion of the population. It is estimated that about 8 million Americans receive thyroid replacement and suppression therapy. Brand-name products are often recommended as the levothyroxine preparations of choice because of widespread concern about the therapeutic equivalency of less costly generic products. However, it is controversial whether different brands of levothyroxine are therapeutically interchangeable and bioequivalent because variations in thyroxine levels have been observed in pa-

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Public funding ...

...a way to foster **Academic Freedom.**

A Basic Right

- *Art. 27 Universal Declaration of Human Rights (1948)*
- *Art. 13 Charter of Fundamental Rights of the EU*
- Western Constitutions (e.g. Germany, art. 5 (3); Italy, art. 9 and 33; US case law)

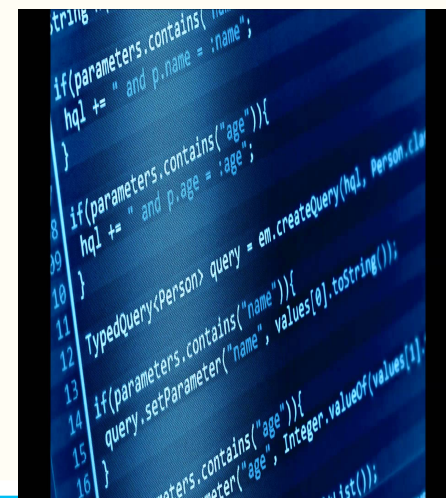
At the same time, scientific results are knowledge assets

- Intellectual Property (Copyright)
- No special rules for science

Works Protected

Art. 1, art. 2, Italian Copyright Act.

Works of the mind having a **creative character** and belonging to literature, music, figurative arts, architecture, theater or cinematography, whatever their mode or **form of expression**, shall be protected in accordance with this Law.



Requirements to acquire the right

- Work Creation
- Creative Character
- No Formalities (anymore)

What is Creativity?

Bacalov

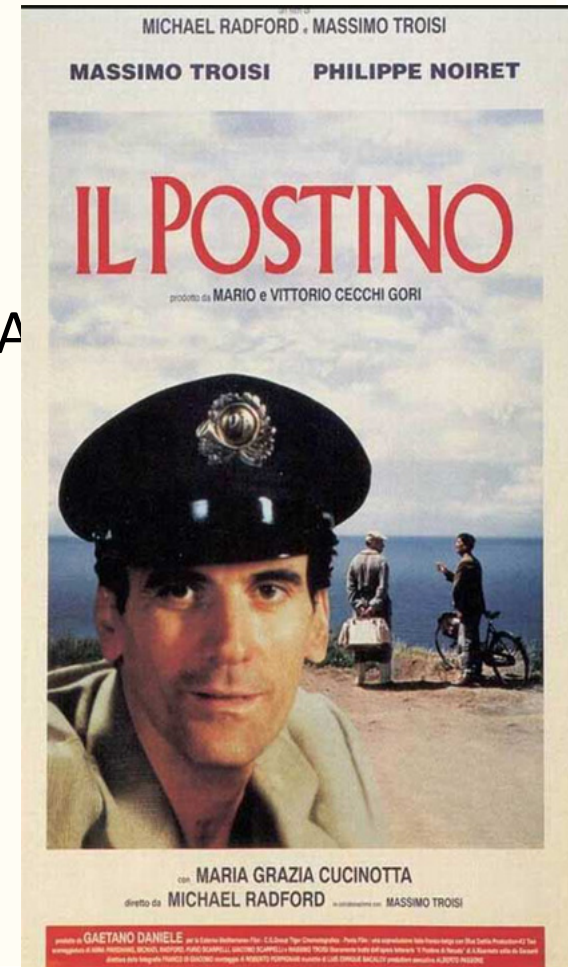
Il postino

<https://www.youtube.com/watch?v=yF854XsJA>

Endrigo

<https://www.youtube.com/watch?v=bfwyGUBAODE>

“Nelle mie notti”



CJEU - Painer-decision (145/10)



Court of Justice of the European Union (CJEU)

A work is to be considered original if it is the author's own intellectual creation **reflecting his personality**, no other criteria such as merit or purpose being taken into account.

- CJEU - Painer-decision (145/10), at 88: “*an intellectual creation is an author’s own if it **reflects the author’s personality**. That is the case if the author was able to express his creative abilities in the **production of the work by making free and creative choices**”*, at 92: By making ... choices, the author of a portrait photograph can stamp the work created with his ‘personal touch’.
- CJEU Case 604/10 – Football Dataco - at 37: the **continental European creativity test alludes to an expression of personality in the work**.

Copyright Law

- Copyright law grants authors an **exclusive rights** in their **intellectual works**.
- The exclusive right embraces:
 - **Moral rights**
 - i.e. right of attribution
 - **Economic Rights**
 - i.e. publication, reproduction, derivative works, etc.

Authorship and Ownership

- The author is the creator of an intellectual work
- The rightholder is the person who is entitled to exploit the work in order to gain an economic revenue from it
 - Normally → the same person

Works within an employment relationship

- General rule: rights to economic exploitation belong to the employer insofar as the work is created by an employee in the course of their employment
- Exception: scientific publications

Copyright Limits



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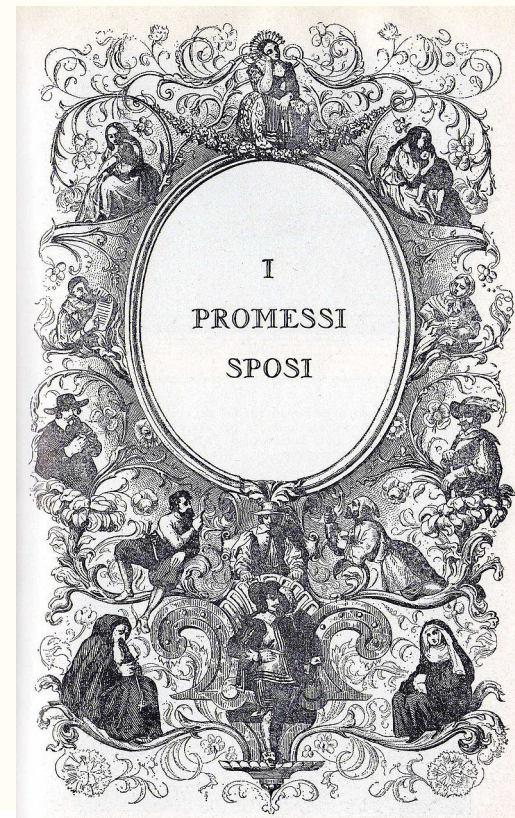
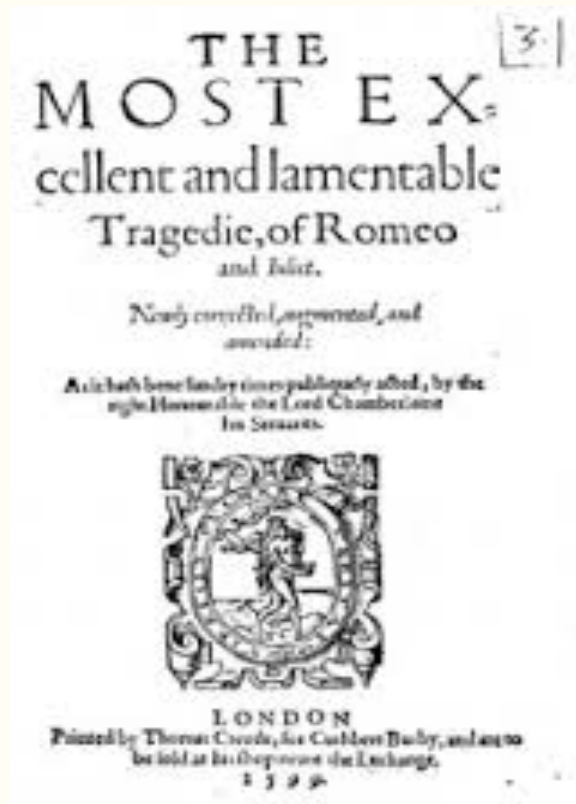
Duration: “Tomorrow Never Dies”



Copyright Law limits: extension

- Extension:
 - Originality
 - Expression/Idea Dichotomy
 - First Sale Doctrine

Idea Expression Divide



First Sale Doctrine

Once a work is sold or distributed on a specific territory with the consent of the right holder, the latter may not control or prevent the further distribution.

Copyright exceptions

Examples

- The use of fragments or quotations for criticism, discussion, or non-commercial teaching or research (with source indicated) (Art. 70)
- Reproduction and communication for persons with disabilities (Art 71-bis)
- Loans by state libraries made for cultural promotion or personal study do not require authorization or remuneration (Art. 69)

The Case of Software

- Text:
 - literal elements (similarity to a work protected by copyright)
- Machine:
 - functional elements (similarity with an invention protected by patent)

Complementary and alternative protection

- **Copyright**
- **(Patent)**
 - Art. 52 European Patent Convention excludes "programs for computers" from patentability to the extent that a patent application relates to a computer program "as such" (Art. 52(3)).
 - Any invention which makes a non-obvious "technical contribution" or solves a "technical problem" in a non-obvious way is patentable even if that technical problem is solved by running a computer program.

2

Copyright Circulation

Contract

Freedom of negotiation

- Assignment
- Licence (exclusive/non; time-limited/perpetual)

3

Open Access to Scientific Knowledge

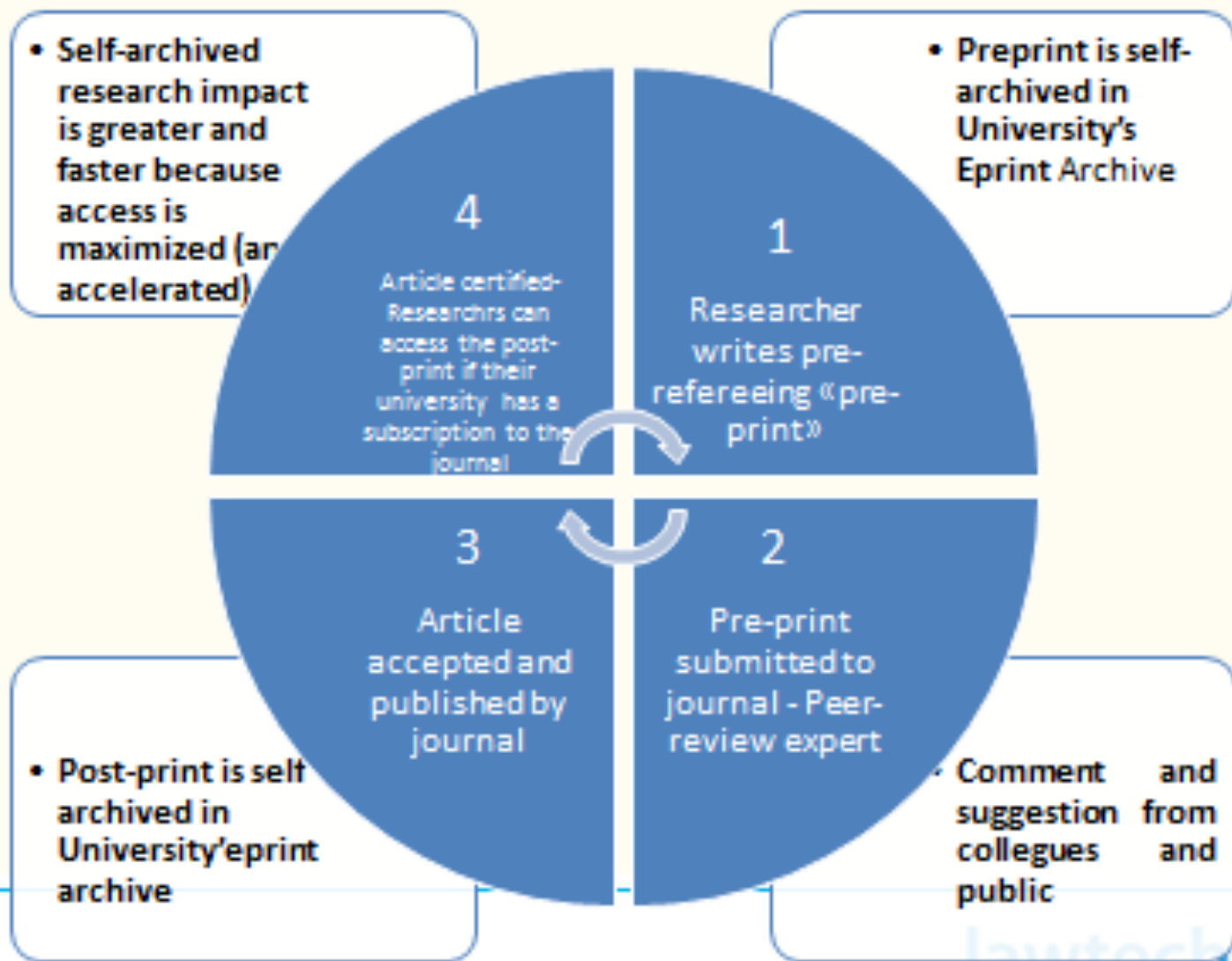
Open Access



Open access (OA) means **unrestricted** online access to scholarly research.

Open access is primarily intended for **scholarly journals**, but is also provided for a growing number of **theses, book chapters, and monographs**.

Publishing cycle(s)



Open Access Origin

- Bottom-up phenomenon
 - librarians
 - scientists communities publishing their results through Internet, on archives and journals accessible to anyone (and without a payment of a price)

OA: declarations, policies, guidelines, ...

- Budapest Open Access Initiative 2002
- Bethesda Statement Open Access Publishing 2003
- Berlin Declaration 2003 (Dichiarazione di Messina 2004; Linee guida per l'accesso aperto alle tesi di dottorato 2007)

Open Access: modelli

- Gold road → “scholarly works published **ab origine** on OA basis” (open journals)
- Green road → “**self-archiving** in OA **repositories** of published peer reviewed articles” (institutional and disciplinary repositories)
- (Hybrid OA) → OA publication of articles in closed access journals, against payment of the article processing charge (APC)

Open Access Modelli

Gratis OA: eliminates only the economic barriers to access
(weak forms of OA)

Libre OA: eliminates the economic barrier and lowers legal
barriers to access

OA Key: Paternity and Reputation

Attribution



Reputation: author's name, institution's name, repository's name, search engine's name

More visibility and more impact

Open Archives

- Disciplinary
- Institutional

[Sfoglia](#)[Aiuto](#)[Login](#)

CINECA IRIS Institutional Research Information System

IRIS è l'Anagrafe della ricerca dell'Università degli Studi di Trento, e ha lo scopo di raccogliere, documentare, diffondere e conservare le informazioni relative alla produzione scientifica degli autori afferenti all'Università degli Studi di Trento.



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[IRIS Univ. Trento](#) / [Home page](#)

Italiano

Benvenuti in IRIS

IRIS è la nuova anagrafe della ricerca di Unitn che sostituisce U-GOV e l'archivio istituzionale ad accesso aperto Unitn-eprints Research.

I prodotti di U-GOV sono stati migrati in IRIS, mentre i prodotti di Unitn-eprints Research verranno migrati in una seconda fase operativa. I prodotti che in U-GOV erano in stato "provvisorio" sono stati migrati in IRIS ma diverranno visibili nell'interfaccia pubblica solo se verranno salvati dagli autori in stato definitivo.

La migrazione e la configurazione sono state operazioni delicate: confidiamo nella vostra pazienza in caso di imperfezioni in via di correzione, e siamo grati dell'aiuto che ci darete segnalandoci eventuali criticità.

Prontuari, manuali e video tutorial sono disponibili [qui](#).

E' disponibile il corso su [Proprietà intellettuale e Open Access](#).

NEWS!! Dal 15 settembre 2015 è disponibile in IRIS, previo Login, la procedura di associazione all'[identificativo unico ORCID](#).

Pubblicazioni recenti



Cerca

Tipologia

03 Contributo in periodico (Part of a journal)

30648

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Disciplinary Archives, examples: *Social Science Research Network*

The screenshot displays the SSRN website. At the top, the SSRN logo is on the left, followed by the text "SOCIAL SCIENCE RESEARCH NETWORK" and the tagline "Tomorrow's Research Today". A "QuickSearch" input field is on the right. Below this is a navigation bar with links: Home, Search, Submit, Subscribe, Shopping Cart, My Briefcase, and SSRN blog.

On the left side, there is a "SSRN USER HQ" section with a login form for "USER ID" and "PASSWORD", a "Go" button, and links for "Forgot ID or Password?" and "Help". Below this is a vertical list of research networks: Accounting ARN, Cognitive Science CSN, Corporate Governance CGN, Economics ERN, Entrepreneurship ERP, Financial FEN, Health HEN, Information ISN, Leadership LRN, Legal LSN, and Management MRN.

The main content area features the "SSRN eLibrary" section, which is co-hosted by the Chicago Booth School of Business, ECgi (European Corporate Governance Institute), Korea University, and Stanford Law School. It includes buttons for "Top Papers", "Top Authors", "Top Institutions", "Search", and "Browse", as well as links for "Research Paper Series", "Partners In Publishing", and "Institution Home Pages".

To the right of the eLibrary is the "Recent Announcements" section, listing several events and publications, including the "Announcing Finlawmetrics 2010 Conference Abstracting eJournal", "Indian School of Business Joins MRN Business School Research Papers", "Announcing 2 New ERN Research Paper Series Journals", "Announcing 3 New LSN Research Paper Series Journals", "Euricse Joins Economics Research Centers Papers", "University of the Pacific McGeorge School of Law Joins Law School Research Papers - Legal Studies", "Announcing CAAA 2010 Annual Meeting Abstracting eJournal", "Announcing New FEN Subject Matter eJournal", and "Announcing 2 New and 1 Upgraded ERN Research Paper Series Journals".

Below the eLibrary is the "BePress" section, which includes links for "Announcing 2 New ERN Research Paper Series Journals", "Announcing 3 New LSN Research Paper Series Journals", "Euricse Joins Economics Research Centers Papers", "University of the Pacific McGeorge School of Law Joins Law School Research Papers - Legal Studies", "Announcing CAAA 2010 Annual Meeting Abstracting eJournal", "Announcing New FEN Subject Matter eJournal", and "Announcing 2 New and 1 Upgraded ERN Research Paper Series Journals".

At the bottom left, there is a section titled "Leading Social Science Research Delivered Daily" with a paragraph describing the SSRN's mission: "Social Science Research Network (SSRN) is devoted to the rapid worldwide dissemination of social science research and is composed of a number of specialized research networks in each of the social sciences. We have received several excellence awards for our web site."

Benefits of Open Access

- **Speed and extent** of content dissemination
- **Interdisciplinary research** (collaboration)
- **Transparency** to citizens
- **Preservation** of research results over time
- Development of **new research evaluation processes**
- **Visibility**

Legal tools fostering OA

- Legal Policies
- Publishers/researchers contracts.
- Copyright holders/readers
 - Standard forms contract: Creative Commons Licenses





Standard licenses giving rights to access and use a copyrighted work for free.

<https://www.youtube.com/watch?v=7j7ZSEt-ME0>



Features of these licenses

- Prepackaged
- User-friendly
- Modulars

Key elements of the license

- **Attribution** 
 - You let others copy, distribute, display, and perform your copyrighted work — and derivative works based upon it — but only if they give credit the way you request.
 - Starting with CC version 2.5, the Attribution element is factually a baseline right and not an element that can be chosen or not
- **Noncommercial** 
 - You let others copy, distribute, display, and perform your work — and derivative works based upon it — but for noncommercial purposes only

Key elements of the license

- **No Derivative Works** 
 - You let others copy, distribute, display, and perform only verbatim copies of your work, not derivative works based upon it.
- **Share Alike** 
 - You allow others to distribute derivative works only under a license identical to the license that governs your work

Combinations of options

- cc by = Attribution
 - cc by-nd = Attribution-NoDerivatives
 - cc by-nc-nd = Attribution-NonCommercial- NoDerivatives
 - cc by-nc = Attribution-NonCommercial
 - cc by-nc-sa = Attribution-NonCommercial- ShareAlike
 - cc by-sa = Attribution-ShareAlike
-
- (pd = Dedicated to or certified to be in the public domain)

Three formats

- **Common Deed:**
 - a plain-language summary of the license, complete with the relevant icons
- **Legal Code:**
 - the fine print that you need to be sure the license will stand up in court
- **Digital Code:**
 - a machine-readable translation of the license that helps search engines and other applications identify your work by its terms of use

Common Deed



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1. Definitions

- a. **"Adaptation"** means a work based upon the Work, or upon the Work and other pre-existing works, such as a translation, adaptation, derivative work, arrangement of music or other alterations of a literary or artistic work, or phonogram or performance and includes cinematographic adaptations or any other form in which the Work may be recast, transformed, or adapted including in any form recognizably derived from the original, except that a work that constitutes a Collection will not be considered an Adaptation for the purpose of this License. For the avoidance of doubt, where the Work is a musical work, performance or phonogram, the synchronization of the Work in timed-relation with a moving image ("synching") will be considered an Adaptation for the purpose of this License.

Digital Code

Possiedi un tuo sito web?

Copia il seguente testo sul tuo sito web per permettere ai tuoi visitatori di sapere sotto quale licenza sono state pubblicate le tue opere.

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<a rel="license" href="http://creativecommons.org/licenses/by/3.0/"></a><br />Questo/a opera &#232; pubblicato sotto una <a rel="license" href="http://creativecommons.org/licenses/by/3.0/">Licenza Creative Commons</a>.
```

Seleziona il codice html + rdf dal campo di testo e copialo negli appunti. Puoi anche fartelo inviare via email.

Open Access

Within Italy and European Union

OA: “Legal Framework”

- Commission Recommendations of 17 July 2012 on access to and preservation of scientific information (2012/417/EU)
- Italian Law (Law of October 7, 2013, n. 112, section 4 §2,3,4)
- Policy UNITN
- EU Research funding: FP7 – Horizon 2020

Law of October 7, 2013, n. 112, section 4 §2,3,4)

Implement the necessary **measures for the promotion** of Open Access

Articles publicly funded (50%)

To promote OA both gold road and the green road

Embargo: 18 months, technical and medical disciplines, 24 months humanities and social sciences.

University of Trento Policy

<http://eprints.biblio.unitn.it/4258/>

Compliant with the Statute, Section 2.8, promoting knowledge dissemination also through OA

Written works excepted those that generate royalties

Researchers obligation:
“dark deposit”

Republication in the Repository on a Libre or Gratis OA basis is strongly encouraged

Horizon 2020

- Framework Programm for Research and Technological Development
- It runs from 2014–2020 and provides €80 billion of funding
- Open access is an underlying principle of Horizon 2020
 - Guidelines:
http://ec.europa.eu/research/participants/data/ref/h2020/grants_manual/hi/oa_pilot/h2020-hi-oa-pilot-guide_en.pdf

Horizon 2020

Pursuant to art. 43, par. 2 Reg. UE 1291/2013 (establishing Horizon 2020)

*“With regard to the **dissemination of results** through **scientific publications**, open access shall apply under the terms and conditions laid down in the grant agreement. **Costs** relating to open access to scientific publications that result from research funded under Horizon 2020, incurred within the duration of an action, shall be **eligible for reimbursement** under the conditions of the grant agreement...”*

Model Grant Agreement

29.2

Each beneficiary **must ensure open access** (free of charge, online access for any user) to all peer-reviewed scientific publications relating to its results.

In particular, it must:

(a) **as soon as possible and at the latest on publication**, deposit a machine-readable electronic copy of the published version or **final peer-reviewed manuscript accepted for publication in a repository for scientific publications**;

Moreover, the beneficiary must aim to deposit at the same time the research data needed to validate the results presented in the deposited scientific publications.

(b) **ensure open access to the deposited publication** — via the repository — at the latest:

(i) on publication, if an electronic version is available for free via the publisher, or

(ii) within six months of publication (twelve months for publications in the social sciences and humanities) in any other case.

(c) ensure open access — via the repository — to the bibliographic metadata that identify the deposited publication.

The **bibliographic metadata** must be in a **standard format**

Model Grant Agreement Enforcement

29.6 Consequences of non-compliance

If a beneficiary breaches any of its obligations under this Article, **the grant may be reduced** (see Article 43).

Thank you!

valentina.moscon@unitn.it