Copyright

- Copyright as we know it dates from the 19th century (Berne Convention, 1886)
- Victor Hugo leads the lobbying

Principles of Copyright

- A work under copyright can not be reproduced without permission of the copyright holder

- *the idea being, that the copyright holder can ask a renumeration in exchange*

- Copyright is a right: it is accorded by default to any new and original creation by an author

- *one does not need to explicitly declare it*

Graphic design and copyright

- Graphic designers deal with copyright in two senses

- They have copyright on their designs

- They work with images made by others, of whom they are supposed to respect the copyright

Copyright can be sold

- Unlike other rights (education, shelter, etc.) an author can sell their copyright.

- It's more like carbon emissions.

- Author's often sell their copyright to publishers

Copyright duration

- A work falls into the public domain, the 1st of january after the 70th anniversary of the death of the author.

- *In 1942, Bruno Schulz has been shot in Drohobycz Ghetto. Alexander Belyayev has died of starvation in a nazi occupied Soviet town. Olena Teliha is executed by the Gestapo in Kiev. Jakob van Hoddis has been deported to Sobibor along with the rest of the patients (and staff) of the sanotorium for the mentally ill where he resides. Daniil Kharms has been imprisoned in a psychiatric ward in Leningrad by the Soviet regime, and dies of starvation after the nazi blockade of the city.*

Licensing re-use

- An author can choose to accord a license to other parties to allow certain kinds of re-use, so that the third party does not have to ask each time

- A user of facebook accords a license to Facebook to allow Facebook to republish his posts in the context of the website

- A graphic designer contributing a poster to the Chaumont exhibition accords a license to republish the image in the context of catalogs and the website

Open Source / Libre Licenses

- You can choose to create such a license to open up your work for reuse, not to any particular party, but to any party interested (who wants to meet the conditions of the license)

- The most well known example is the range of Creative Commons licenses

- The % of works licensed in such a manner is rather small

Beyond the public domain

- If the author died before 1942, there is no more copyright

- *Even if museums make it look like you are paying for rights, you are only given them a renumeration in exchange for access*

- For example, most of the fond Dutailly is open to reuse

- But what are your options for appropriating work from the 20th/21th century?
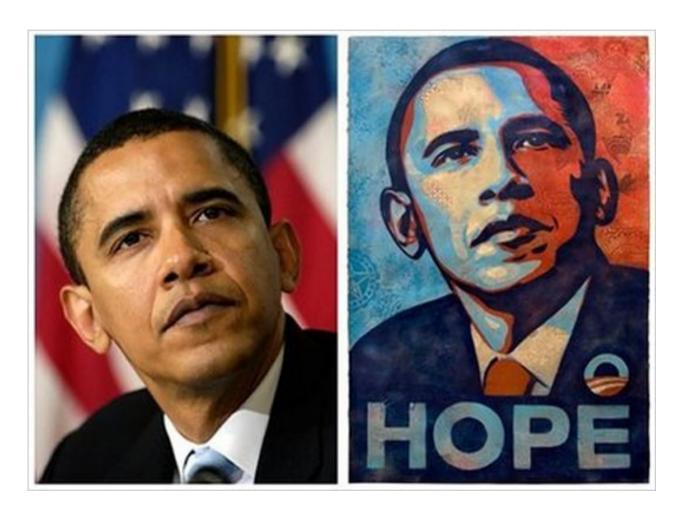
Citation

- Whereas in written text, citation of copyrighted works is allowed, no such exception exists for images.

- Taking a small part of an image requires permission of the rights holders.

Inspiration / derivation

- In the same vein, a 'derived work' is also not permitted without permission. That is to say, a translation, an adaptation from one medium into another.

- However, an 'inspired' work is allowed.

What is inspiration?

- The law makes a distinction between the idea contained within an artwork, and its specific expressions that makes up the artwork.

- One is allowed to reuse the idea, but not the expression.

- The distinction idea/expression is not without problems

Shepard Fairey used an existing photograph as a basis for his HOPE poster. He settled out of court

The parody exception

- The law provides for an exception to copyright in the context of:

- Parody

- Pastiche

- Caricature

Rogers vs Koons (1990)

- Jeff Koons reproduces a postal card as a sculpture. The original photographer sues. Koons tries the parody defense. He looses, because:

- It is not clear that the intention of Koons is to mock

- Koons goes beyond the detail necessary to do a parody

Sampling

- The culture of sampling in music tells us about other strategies employed in reappropriation, which are not necessarily about being legal, but rather about minimising the risks involved in breaching copyright:

- Obscure sources
- Sources transformed as to not be recognisable

- A less dependable strategy:
- Obscure results