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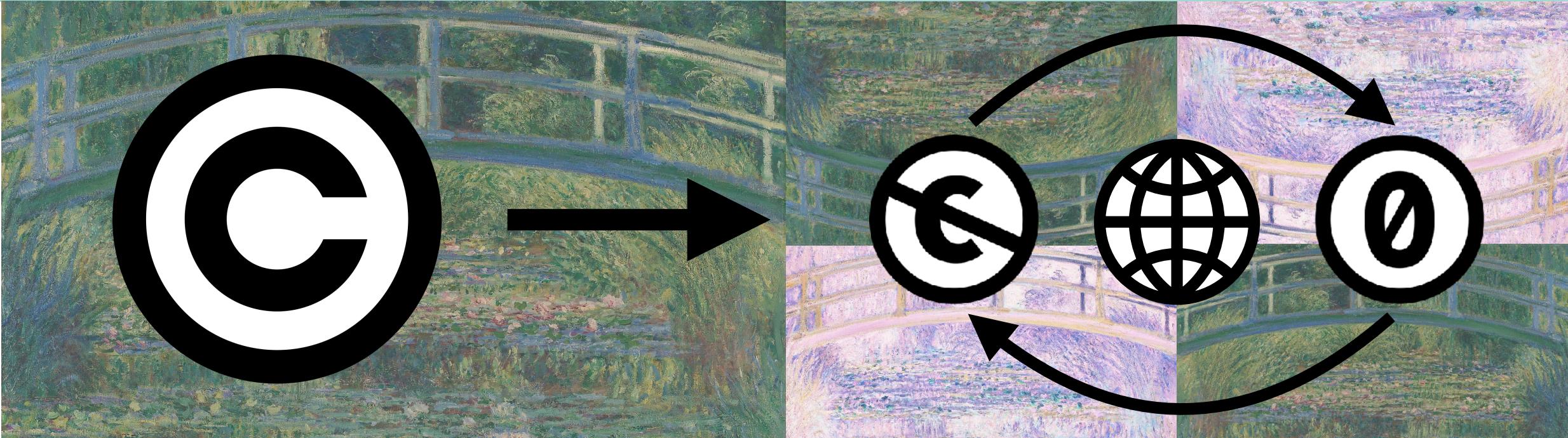


# What Do I Need To Know About Copyright?

## Situating Copyright Law And What It Means For Open Culture

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# **What Do I Need To Know About Copyright?**

## Situating Copyright Law And What It Means For Open Culture

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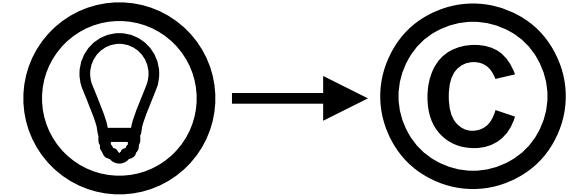
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# Copyright Law 101

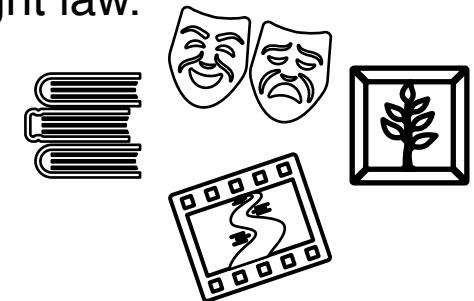
## What and Who is Copyright for?



Copyright is automatic, and copyright law regulates how others are allowed to access, use, copy and adapt an original work. Ever since the «Statute of Anne» (1710, UK) supporting the authors of printed books, this legal area has affected the way we interact with works both offline and online. Typically a matter of national jurisdiction, international treaties have attempted to create global commonalities in copyright law.

- **6 Fundamentals** to remember about Copyright © :

- It grants a set of exclusive rights (economic & moral) to copyright holders
- It grants rights to works that are *original* (!)
- It does not protect facts or ideas themselves, only their expression (ideas cannot be copyrighted)
- It is *automatic* the moment a work is created (some countries require it be fixed in a tangible medium)
- Its protection lasts a long time (related to year of creation or year of creator's death)
- Its protection is balanced against other public interests = can be limited

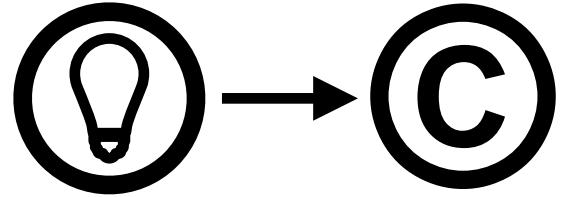


⇒ Registration at a copyright office is not mandatory for copyright protection, but can be beneficial

⇒ Problem: «**Orphan works**» are copyrighted, but their copyright holder is unknown or cannot be located

# Copyright Law 101

## Exclusive Rights

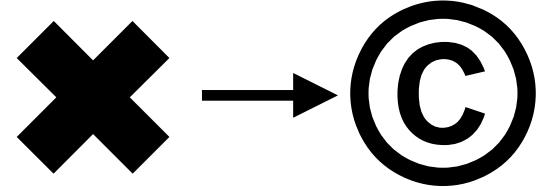


Copyright grants the copyright holder **exclusive rights**: economic & moral. Having these rights should both motivate creators to keep creating new works and reassure them that their claim as creators is recognized and protected. Guaranteeing rights therefore acts as an incentive for the production of works.

- **Economic rights** = when others use their work, the copyright holder can derive financial compensation
    - right to make copies, right to perform & publicly communicate work to public, right to make adaptations
    - Adaptation / Derivative / Remix = newly generated work based on a previous original work
  - **Moral rights** = creators may preserve and protect their connection to their work
    - right to be recognized as creator, right to protect the work's integrity (e.g., objection to changes)
- ⇒ Exclusive rights **can be transferred**, giving other individuals, or even universities and corporations, the authority to grant use permissions. Therefore, the copyright holder is not always the original creator of a work.
- ⇒ In some circumstances, you may not be the copyright holder of your work, such as during an employment, as a contractor, or at an educational institution. In the case of co-creation, you may become a joint owner.

# Copyright Law 101

## Limits to Copyright



Owning a physical work (e.g., artwork, artefact) does not grant you automatic copyright over it. While you are legally permitted to do what you want with the work, you cannot limit others' uses, such as making copies.

Likewise, there are so-called **built-in «exceptions and limitations»** to copyright:

- Some types of use do not infringe on copyright = these include criticism, parody, disability accessibility, ...
  - They are either explicitly listed in legislation, or noted flexibly, with the need for stronger legal controls
- U.S. Copyright Law includes a **«fair use» doctrine**, considering four elements:
  - purpose & character of use
  - amount & substantiality of portion taken
  - nature of the work
  - effect of use on potential market

⇒ Exceptions and limitations are widely accepted, although still subject to national jurisdiction.

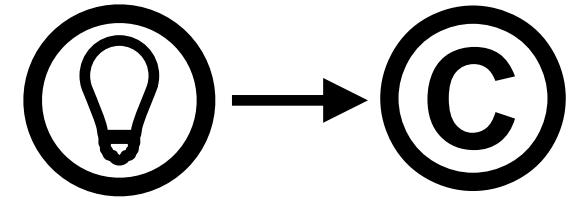
⇒ Public interest can prevail over established copyright, allowing particular uses.

This is encouraged by the Creative Commons, who aim to support open access for research, education and culture without diminishing the rights of creators.

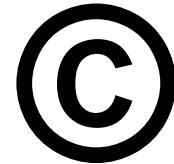


# Intellectual Property

## Protecting Your Works Properly



Copyright belongs to the legal category of «Intellectual Property» (IP). This grants legal rights allowing creators to restrict the use of their works (usually creative/artistic/literary). Various types of IP exist:



Copyright



Unregistered  
Trademark



Registered  
Trademark



Patents

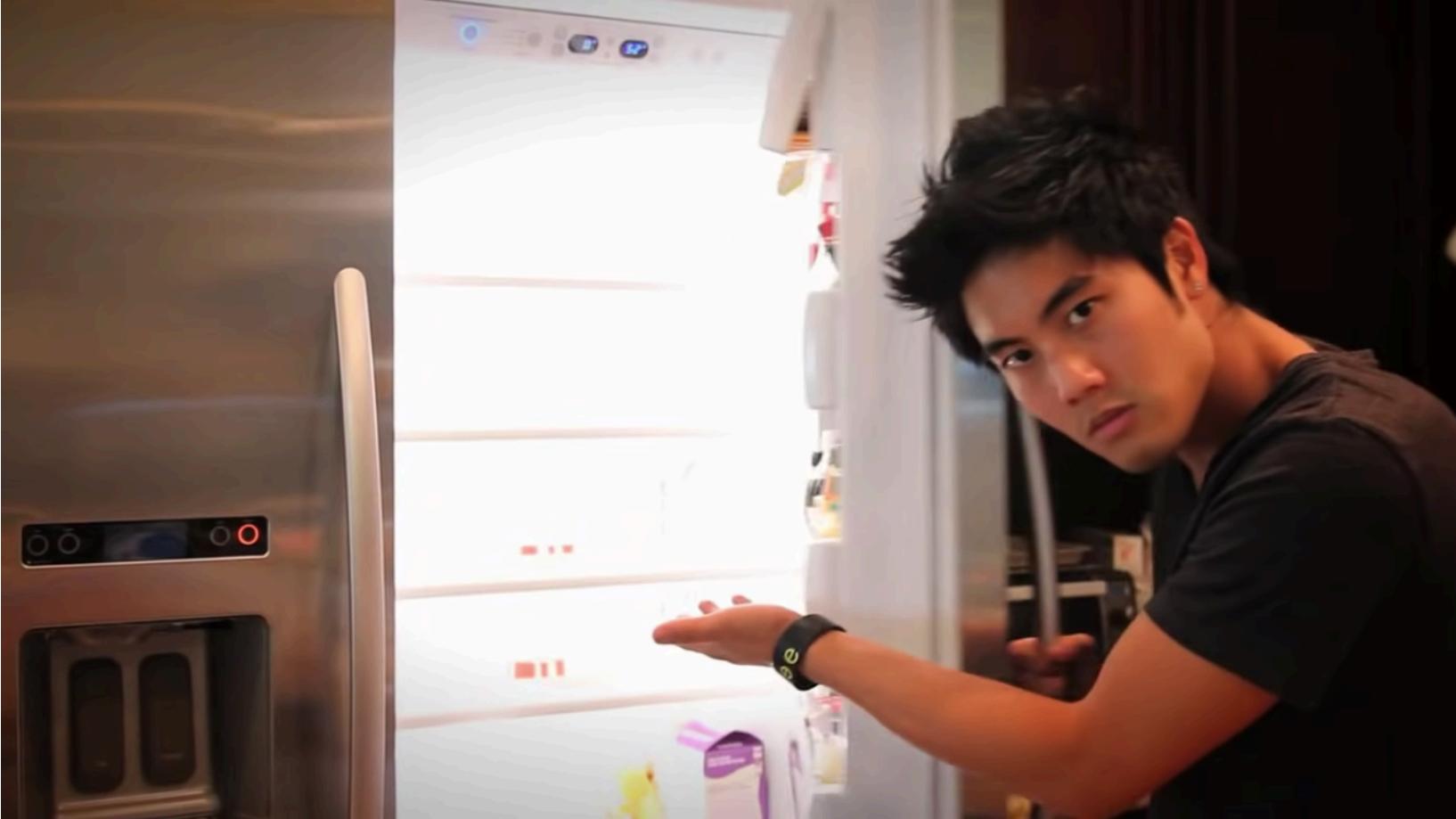
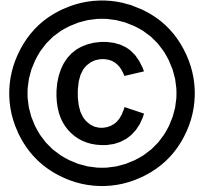


Trade Secrets

- **Trademark** = element of recognizability & distinguishability, clearly identifies source of work/service
  - Unregistered = «common-law», accepted (not all countries) | → Registered = helps when taking legal action
- What is the difference between a patent and a trade secret? **Disclosure + Protection** vs. **Non-Disclosure + Risk**
  - Registering patent gives inventors a time-limited monopoly, in exchange for eventual publication of invention
  - Keeping a trade secret does not require you to disclose any information, but also provides no protection

# Intellectual Property

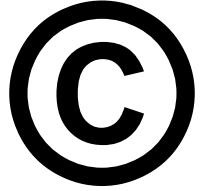
## In Popular Culture



Still from «5 Steps To Be Badass» [2:47] by Ryan Higa (@nigahiga): [Link](#)

# Intellectual Property

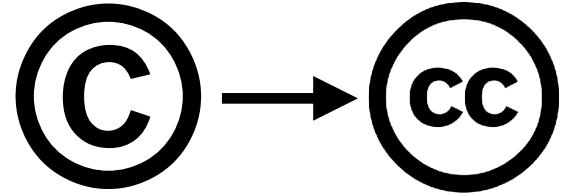
## In Popular Culture: Copyright Infringement



Still from «5 Steps To Be Badass» [2:49] by Ryan Higa (@nigahiga): [Link](#)

# Benefitting the Commons

## Public Domain



Whatever is not or is no longer copyrighted, enters the public domain, where anyone can use and adapt works. This change in copyright status does not automatically negate moral rights (e.g., mention of the original creator/housing institution is still considered good practice), and depends on the country in question.

- Works can enter the Public Domain in 4 ways:

- Copyright expires (limitations related to year of creation or year of creator's death)
- Work was never entitled to copyright (e.g., ideas, public resources, state legal texts)
- Creator dedicates work to Public Domain (e.g., with a CC-Zero License)
- Copyright holder fails to comply with formalities to acquire or maintain copyright



Public Dedication

⇒ Work might be in the public domain **in some countries, but not all (!)**

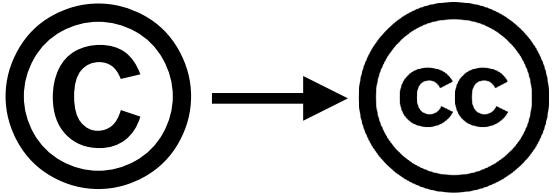
⇒ Creative Commons Licenses can help, since they are applicable and enforceable everywhere.  
BUT: You must be the copyright holder to add a CC License to a work.

⇒ Good to Know: CC «Public Domain Mark» indicates a work's copyright has expired worldwide



# Benefitting the Commons

## Harnessing Your Copyright Freedom



In Switzerland, most works are copyrighted by **year of creator's death + 70 years** (in cases of co-authorship, the last surviving author's death year). Interestingly, works by unknown creators automatically enter the public domain 70 years after the year of publication. Once they have entered the public domain, they remain there, regardless of whether the works' authors can be newly identified. The [Swiss Federal Copyright Act of 1992](#), which is still current with minor revisions, was non-retroactive: works already in the public domain in 1993 enjoyed no renewed protection (previously, copyright had been limited to 50 years after author's death).

- ⇒ Don't forget to check the exceptions and limitations to copyright for your country (!)  
→ Consult the [«List of countries' copyright lengths»](#) and similar resources to compare national differences
- ⇒ Consider making your own works more accessible by adding a CC License to them:



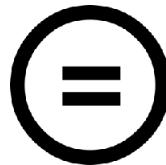
Attribution



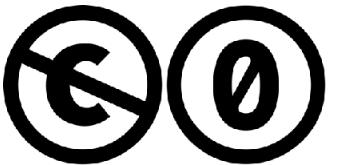
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# References

Slide 3–6: “2.1 Copyright Basics” <https://certificates.creativecommons.org/cccertedu/chapter/2-1-copyright-basics/> by [Creative Commons. CC BY 4.0.](#)

Slide 9: “2.2 Global Aspects of Copyright” <https://certificates.creativecommons.org/cccertedu/chapter/2-2-global-aspects-of-copyright/> by [Creative Commons. CC BY 4.0.](#)

Slide 9: “2.3 The Public Domain” <https://certificates.creativecommons.org/cccertedu/chapter/2-3-the-public-domain/> by [Creative Commons. CC BY 4.0.](#)

Slide 5: “2.4 Exceptions and Limitations to Copyright” <https://certificates.creativecommons.org/cccertedu/chapter/2-4-exceptions-and-limitations-to-copyright/> by [Creative Commons. CC BY 4.0.](#)

Slide 6: Trademark, <https://en.wikipedia.org/wiki/Trademark> by [Wikipedia. CC BY-SA 4.0.](#)

Slide 10: List of countries' copyright lengths, [https://en.wikipedia.org/wiki/List\\_of\\_countries%27\\_copyright\\_lengths](https://en.wikipedia.org/wiki/List_of_countries%27_copyright_lengths) by [Wikipedia. CC BY-SA 4.0.](#)

Slide 10: Copyright law of Switzerland, [https://en.wikipedia.org/wiki/Copyright\\_law\\_of\\_Switzerland](https://en.wikipedia.org/wiki/Copyright_law_of_Switzerland) by [Wikipedia. CC BY-SA 4.0.](#)

Slide 10: “231.1 Federal Act on Copyright and Related Rights” [https://www.fedlex.admin.ch/eli/cc/1993/1798\\_1798\\_1798/en](https://www.fedlex.admin.ch/eli/cc/1993/1798_1798_1798/en) is ineligible for copyright and therefore in the public domain.

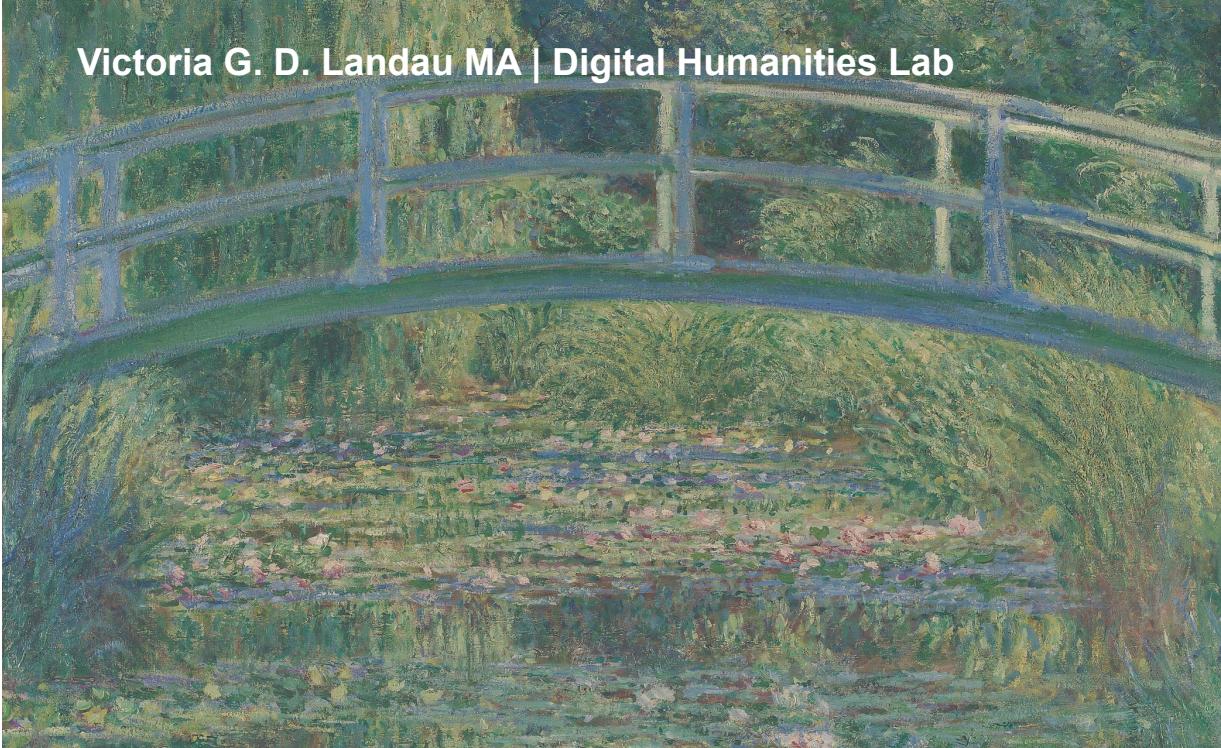


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# Thank you for your attention.

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