

Copyright and Open Licensing

Jeff Gallant

Copyright information adapted from Lisa Macklin's ALG presentation:

http://affordablelearninggeorgia.org/documents/Copyright_Macklin_Slides.pdf

What is copyright?

The exclusive rights of a work's creator to:

- Reproduce the work
- Create derivative works
- Distribute copies of the work
- Perform the work in public
- Display the work in public physically or otherwise (television, radio, internet)

These works need to be in a "tangible" format, which could be physical or digital.

Is copyright always the creator's right?

Not if they give permissions to someone else.
This often happens through publishing contracts, including author agreements when researchers submit a peer-reviewed article in a non-open journal, or when professors co-write a commercial textbook.
It is the creator's right to give permissions for others to use their works.

Is every type of work protected?

No. Works not protected by copyright include:
Titles, names, short phrases, slogans (Trademarks)
Facts, news, and discoveries
Works created by the U.S. government
Ideas, procedures, methods, systems, processes (but these may be patentable)
Works lacking a modicum of originality (e.g. a phone book in alphabetical order)

What if there's no copyright indication?

Copyright is now automatic when a work is created, no indications are necessary.
If there is no indication of copyright and the work was created after 1923, you must assume it is "all rights reserved." This is a very common issue on websites.

What was that about 1923?

If a work was created before 1923, it is in the **public domain**.

This takes the work from “all rights reserved” to “no rights reserved.” Attribution isn’t even necessary, although it’s informative.

There are a few other ways a work can be in the public domain, but those are more complicated. Check:

<http://fairuse.stanford.edu/overview/public-domain/welcome/>

Everything before 1923 is free, then?

Not exactly. If a **new edition** or **derivative work** is made of a Public Domain work, the original work is still free to use with no rights reserved, but the new edition has its own copyright.

For example, Plato’s *Republic* is Public Domain. A new 2010 **translation and critical edition** of the text has its own copyright, so while you could copy *Republic*, you couldn’t copy that edition (unless the author/publisher also released it into the Public Domain).

Is it either “all rights reserved” or none?

Not anymore, thanks to Open Licensing!

What is an Open License?

A legal document that gives **permissions** beyond copyright to:

- Reuse** the work,
- Redistribute** the work,
- Revise** the work,
- Remix** the work, and/or
- Retain** the work.

(These are the “5 R’s” of Open.)

More on the 5 R’s:

From David Wiley, who created the 5 R list:

<http://www.opencontent.org/definition/>

Equation for an Open Resource:

$$\text{Open} = \text{'Free'} + \text{Permissions}$$

Permissions = Open License

(Not all versions of an open resource need to be free.
Not all permissions are the same.)

Is this just an experimental movement that no one would recognize?

It is **internationally** recognized. Over one billion works are licensed with Creative Commons:

<https://stateof.creativecommons.org/2015/>

The US Department of Labor just adopted a department-wide open licensing policy:

<http://sparcopen.org/news/2016/dol-open-licensing-policy/>

What open license should I use?

Because we're in open education and not open-source software, **Creative Commons** is easily the best option.

Details on every CC License:

<https://creativecommons.org/licenses/>

Why would I avoid "No Derivatives?"

If you would like someone to be able to update your work in the future to keep it relevant, derivative works are important. This also helps with accessibility and modularity.

Therefore, ND is "less open" in the case of OER.

What if someone makes a bad or inaccurate version of my material?

Creative Commons licenses always include **attribution** of the original work, with the "CC0" Public Domain license being the one exception.

If someone makes a 'bad' derivative of your work, the original should be linked in this derivative work. Your original work should both be visible and unchanged.

What if someone just copies my material and claims it as their own?

This violates the permissions given in a Creative Commons license (unless it's CC0) and it is infringement, just like any infringement in all-rights-reserved copyright.

Can I remove the license from my work?

No. A Creative Commons open license is legally **irrevocable**. For users, this is important, because they know their rights to copy and reuse the work with attribution won't suddenly disappear, with permissible use suddenly becoming infringement.

This website is free, but not open. Can I link to it in D2L?

Yes, because linking is not infringement.

However, this means that the original site's creator has the sole permission to copy the material and make changes.

Some links may be dead and irreparable, web addresses may move, and content may be deleted. Sustainability is much more of an issue with no-cost web resources, as periodic link checking is needed.

How do I provide library materials to my class without infringement?

Most library materials are all-rights reserved, but electronic materials often have a "permalink" attached to each resource.

Using the permalink means every student at your institution has access to the material through the library or GALILEO, but this isn't a **copy** of a work that would be shared outside of the institution.

What if I still have questions about this after today?

Ask a Librarian!

Contact me: jeff.gallant@usg.edu

If this is not a best-practices question but rather a legal advice question, that question is better answered by a lawyer, such as a university attorney or a Scholarly Communications specialist with a J.D.

Enough hypothetical questions!
What are your questions?
