DIGITAL RIGHTS (COPYRIGHTS)

Process to permissions

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Digital Resource Management from Data to Knowledge
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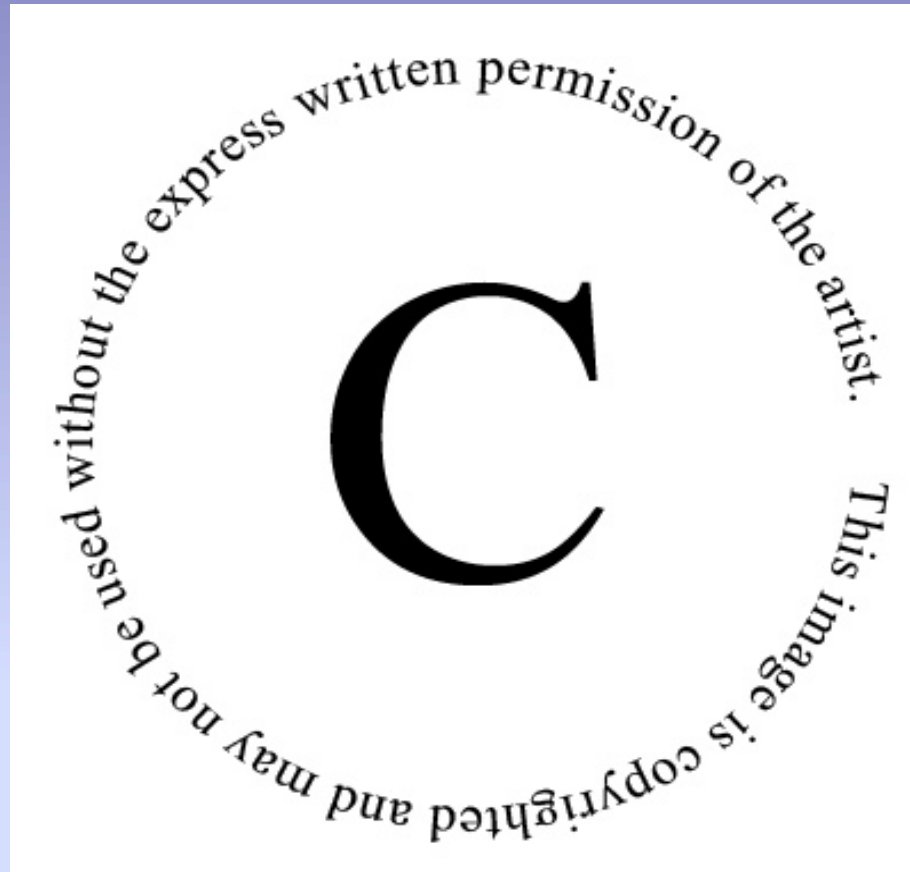# What will be covered

©   Introduction: Rights to digitise

         Background & history

         Copyright treaties & legislation

         Terms, conditions and disclaimers

©   Process to Permissions

©   A Few Examples

©   Open access

©   Conclusion

INTRODUCTION: RIGHTS TO DIGITISE

Give to every human being every right that you claim for yourself.

~Robert Ingersoll

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Uncommon Depth, Flickr, Jan 2009

We are not removing copyright from the author.

Request permission to digitise and make available.

Background of Copyright

"...copyright may be described as the exclusive right in relation to work embodying intellectual content ..."

Owen Dean, Handbook of South African Copyright Law

Protect Intellectual Property (IP)
from unauthorised usage

IP: 4 forms
Patents, trademarks, designs (Industrial Property)
and
COPYRIGHT

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Act for the encouragement of learning

Annae Reginae : Statute of Anne in 1700s

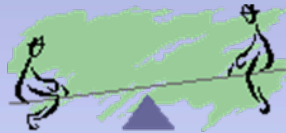Protected author as owner of the right to copy

Control over reprints

Expired after 14 years

WIPO (World Intellectual Property Org.)

Oversees regulation of IP

Copyright holders Users

Berne Convention
for the protection of literary and artistic works
(1886, last amended 1979)

Protect rights of creators
Works originating in one of contract States
given same protection in each of other States.

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Very Quiet, Flickr, May 2009

Copyright symbol not required (©)
Author/Creator owns copyright

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South Africa: Copyright Act
98 of 1978 as amended

Protects literary and artistic works:

- Literary works
- Musical works
- Artistic works
- Cinematograph films
- Sound recordings
- Broadcasts
- Programme-carrying signals
- Published editions
- Computer programs

Copyright subsists in a work for **50 years** from the end of the year in which the work was made available.

Owen Dean, Handbook of South African Copyright Law

Exemptions from copyright infringement

Public Domain

Examples

- Commissions
- Government documents
- Documents older than 50 years

  (author's life + 50 years)

Fair Dealing

Examples

- Research and study
- Review
- Reporting on current affairs

"Fair" use

- Judicial proceedings
- Quotations
- Illustrations for teaching
- Ephemeral copies
- Works delivered in public for info purposes
- Official texts, political speeches
- Daily news – press

Depends on the portion of the work being used and the commercial availability of the work.

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For the SA Copyright Act visit: www.info.gov.za

World Intellectual Property (WIPO) website
Directory of National Copyright offices
http://www.wipo.int/directory/en/urls.jsp
Collection of Laws for Electronic Access (CLEA):
http://www.wipo.int/clea/en/

COPYRIGHT POLICY

TERMS and CONDITIONS FOR USE

Permitted uses: Use of content for educational, scholarly, research and non-commercial purposes

Prohibited uses: Commercial purposes, incorporate content into other sites, unauthorised reproduction or other exploitation

- Rights of copyright holders to be respected
- Subject to fair use principles – limited academic/educational uses; download or print limited portion
- Contents may not be modified
- Illegal or abusive use may terminate your registration without notice
- In accordance with laws

Failure to comply is considered COPYRIGHT INFRINGEMENT

and may result in legal action.

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COPYRIGHT POLICY

DISCLAIMER

'*The denial, refusal, or rejection of a right, power, or responsibility* ...used generally with the purpose of protection from unwanted claims or liability' (The Free Dictionary)

- In some instances, copyright holders cannot be identified or located
- Best effort made to establish and obtain copyright permission
- Contact us if you can supply information on copyright ownership
- If you feel content violates your copyright (or rights) send a written notice

Consult with a copyright lawyer.

PROCESS TO PERMISSIONS

*What the world really needs is more love
and less paper work.*

~Pearl Bailey

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Initial review & research

Material you want to digitise:

- Look for name/s of copyright originators (owners) – person, project, organisation

- Research on copyright owners – find current contact details, email or addresses (internet)

- Check Metadata

- If owner deceased then source next of kin

- Look at document to source more details

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Investigate copyright situation

Assess legal conditions and requirements.

Follow guidelines for Copyright in terms of risk:

- **HIGH**
- **MEDIUM**
- **LOW**

Requests

- ✓ Using template, send letter requesting permission

- ✓ Provide inventory of material

- ✓ Consent form should be signed by owner and returned to you (legal document)

- ✓ Follow up; if no response send another request

Status

Database – document when permissions are granted or refused.

Final determination: Use/ don't use

- Fair dealing

- Best effort

- Public domain

- Not subject to copyright
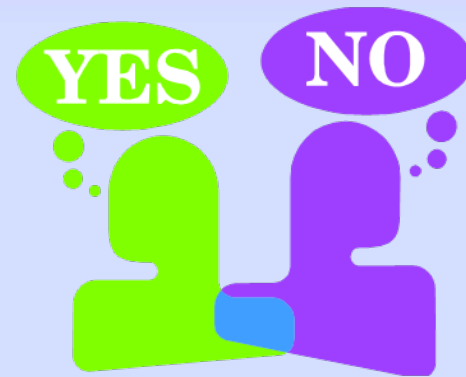
General

- ✓ Ensure that consent form is signed once it is received from owner

- ✓ Make copy for your records

- ✓ File correspondence and consent forms

    NB. Paper trail

- ✓ Update database

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Letter of Request

The rights holder grants you permission to:

- Create digital images as reproductions of historical material in digital form

- Retain digital images in archives – supplemented with index, metadata, other

- Modify and adapt **without changing** the content

- Distribute and make publicly available to users

- For educational and scholarly purposes

EXAMPLES OF PERMISSIONS

A memorandum is written not to inform the reader but to protect the writer.

~Dean Acheson

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Interviews

Copyright held by:

- Interviewer and/or interviewee

  (one or both)

  Safest to get permission from both

Case scenarios

- Permission not granted
- Interviewee deceased – no response from next of kin

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Theses/Dissertations

Copyright held by:

- Owner = author

Contact institution

Best to contact both

Case scenarios

- Thesis already in Institute's repository
- Student has ceded copyright to institute
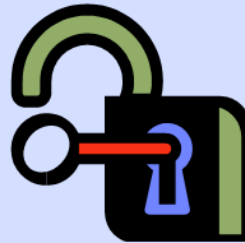- Institute wants proof that author has granted permission

Journals

Copyright held by

- Publisher
- Editor/ Co-editors
- Members of Consortium

Case scenarios

- Multiple editors
- Editor deceased
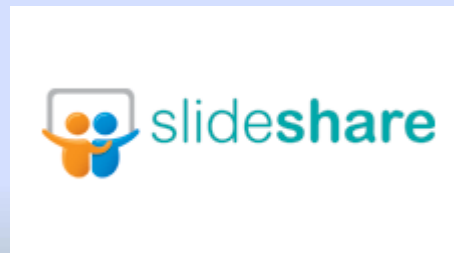- Commercial publisher

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OPEN

ACCESS

Information commons

Research outputs are made available via digital files through internet.

USERS

Find & make use

of resources

AUTHORS

Make information available

Exposure

CREATIVE COMMONS

http:// za.creativecommons.org

Copyright licences

- Keep copyright

- Allow others to copy/distribute

- Attribution/Credit

License specifies:

Use/re-use

Modify

Options:

Public domain, Attribution,

Share-alike, non-commercial…

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ncomment, Flickr

CONCLUSION

Some myths

✖ "It's not a violation if I don't charge for it."

✖ "The work has no copyright notice on it so it's not copyrighted."

✖ "I gave credit to all authors so it's free advertising."

✖ "The author lives in another country so their work isn't protected here."

Brad Templeton, 10 Big Myths about Copyright Explained

(www.templetons.com/brad/copymyths.html)

References & Useful Websites

➤ The African Copyright and Access to Knowledge Project – ACA2K (http://www.aca2k.org)

➤ Handbook of South African Copyright Law, Owen Dean, Juta & Co., 2006 (rev. Ed.)

➤ Handbook on Copyright and Related Issues for Librarians, EIFL (www.eifl.net, EIFL IP, Issues and Campaigns)

➤ Publishers' Association of South Africa (www.publishsa.co.za)

➤ Shuttleworth Foundation (http://copyright.shuttleworthfoundation.org)

➤ UNESCO Guidelines for Digitisation (www.unesco.org)

➤ University of Witwatersrand, subject portal on copyright (http://web.wits.ac.za/Library/ResearchResources/SubjectPortals/)

➤ Wikipedia (http://en.wikipedia.org)

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