

Copyright and other legal issues

Pre-Conference Workshop
Terminology Policies
Antwerp, 15 November 2006

Overview

- Introduction to copyright
- Terminology as a subject to copyright
- Impact of digital technology
- Business models

What means copyright?

- Copyright is a set of exclusive rights regulating the use of a particular expression of an idea or information (<http://en.wikipedia.org/wiki/Copyright>)
- Copyright is the exclusive right of an author to his work (<http://de.wikipedia.org/wiki/Urheberrecht>)

 2 different concepts of "copyright"
in US American and in European law

Copyright in US

- commercial aspect emphasized
- copyright includes exploitation rights
- copyright is transferable
- holders can be physical and legal persons

Copyright in Europe

- creative aspect emphasized
- distinction between moral rights and exploitation rights
- only exploitation rights are transferable
- holders can only be physical persons

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Legal bases

- Berne Convention for the Protection of Literary and Artistic Works
- Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs)
- EU Directives
 - 2001/29/EC on the harmonisation of certain aspects of copyright and related rights in the information society
 - 96/9/EC on the legal protection of databases
- National law
 - based on international agreements

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Database Directive

- Directive 96/9/EC on the legal protection of databases
 - sui generis right
 - protection for whole database and substantial parts of it
 - database update constitutes new copyright

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Legal bases – National

- national legislation authoritative
- often based on international agreements
- common minimum standards for WTO member states
- high level of harmonization in EU member states

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Copyright – exploitation rights – moral rights

- copyright in Europe
 - exists from the creation of a work
 - does not require notice or registration
 - distinguishes between
 - the author's moral rights (not transferable)
 - exploitation rights (transferable)

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Exploitation rights

- right of reproduction
- right of translation, adaptation, other alteration
- right of distribution
- right of performance to the public
- right to use and distribute altered versions of the work

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Terminology as subject to copyright

- information
- ideas
- knowledge
- + representation and arrangement of knowledge
- + databases

Terminology?

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Terminology as subject to copyright

- terminology resources can comprise:
 - terminological data proper, such as
 - linguistic data (terms, abbreviations, symbols, definitions, other kinds of explanatory texts, etc.)
 - non-linguistic data (graphical symbols, images, complex graphs, etc.) to which different copyright provisions and other IPRs can apply
 - associated information

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Terminology as subject to copyright

- Do
 - concepts
 - terms
 - definitions
 - other kind of concept description
 - pictures
 - formulae
 - graphical representations
- constitute copyright?

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Interests protected by copyright

- non-commercial
 - qualitative protection
 - political interests
- commercial

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Copyright as a stimulus for progress

copyright = stimulus
for artistic creation
and scientific
research in order to



wide distribution of
the results of
intellectual works in
order to

- promote scientific,
social and
intellectual progress

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Limitations and exemptions

- reuse of data without permission and royalties
 - quotation
 - private purposes
 - illustration for teaching or research
 - public security
 - administrative or judicial procedure
- Anglo-American law: "fair use", "fair dealing"

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New developments

- new technologies allowing
 - copying
 - storing
 - worldwide distribution/publication
 - worldwide use of information
- ➔ ■ legal problems
 - new collective forms of creation
 - new attribution of functions

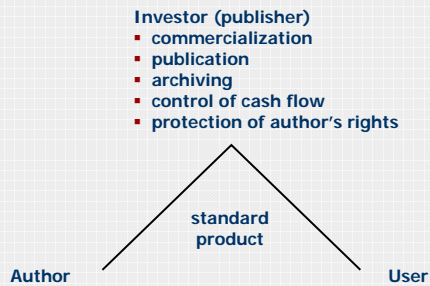
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Legal problems

- no harmonization of legislation in all countries of the world
 - no harmonization of law enforcement standards in all countries of the world
 - no effective worldwide control possible
- ➔ copyright hardly enforceable

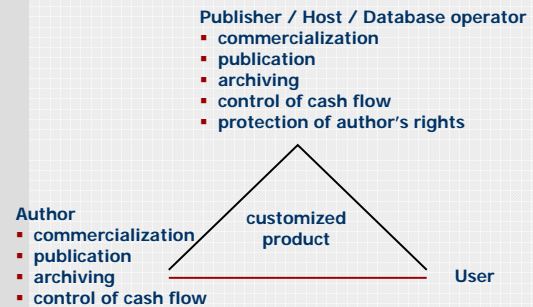
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Traditional copyright model



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New attribution of functions



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Legal relations

- legal relations between
 - author
 - publisher
 - host/database operator
 - user
- exact definition of legal relations
 - various separable functions
 - flexible, customized products and services

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Relation copyright holder – database operator

- CH transfers exploitation rights to DBO
- licence agreement regulates
 - applicable law
 - kind of data usage
 - updating routine
 - remuneration
 - other requirements of CH

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Relation user – database operator

- DBO → user
- grants access to data
 - informs on copyright (copyright notice)
 - excludes warranties by disclaimer
- user → DBO
- commits himself to the lawful use by accepting
 - terms of use
 - Code of Good Practice

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Business model for terminology

- factors
 - product "terminology" and services
 - provider's (author's) interest
 - customer's interest
 - DB operator's interest
 - legal aspects
 - critical success factors

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Provider's interest

- wide distribution of their data
- raise of reputation
- quality assurance
- "fair" material remuneration
- feedback

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Customer's interest

- high-quality up-to-date terminology
- for an "affordable" price
- dialogue with other users
- integration in their workflow

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Critical success factors

- quality of the data
- customized core product
- customized services
- flexible reaction on
 - providers' requirements
 - customers' requirements
- exactly defined legal relations between stakeholders

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Thank you for
your attention



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