Careful with Copyright

Mark Roquet
Scholarly Communication Advisor
to
Who?

A librarian – not a lawyer
What faculty say

"My dissertation has been in the Digital Commons for several years, and I am always encouraged by the reports I receive every month that show me how many people are actually downloading the document. Not only am I gratified that people are still looking at my research, but I am also encouraged to see that the research is being used for further study. Only by means of the Digital Commons would I have that information."

Dr. Bruce K. Bell
Associate Dean for the College of General Studies
What is copyright?

The Congress shall have Power . . . To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries.”

Article I, Section 8, Clause 8, US Constitution
What is copyright?

• “Right to copy,” and neighboring rights
  • Create derivatives
  • Distribute
  • Perform
  • Display

• In US, applies to most work created since 1923

• Protects expression in fixed form
  – not ideas, facts, theories

• Standards for protection are generally very loose

• Registration is not required (but it exists)
A Little History

- Two forces – capitalism and technology
- Increasing internationalization and universality of laws
- Increasing scope and duration
- Continued reaction to new technologies
- Moral rights
Who Owns Copyright?

Usually the creator of the work

... *but...*

she or he can transfer ownership

If the work is for hire the employer owns

the copyright

If one creator is a federal government

employee the work is in the public domain

The creator can dedicate the work to

the public domain
Transfers and Licenses

Transfer
Complete, irrevocable transfer of intellectual property

License
Permission, often with specific restrictions. Exclusive or nonexclusive.

Most scholarly publishers ask for copyright to be transferred.
Copyright Transfer Agreement (Springer)

The copyright to this article is transferred to Springer (respective to owner if other than Springer and for U.S. government employees: to the extent transferable) effective if and when the article is accepted for publication. The author warrants that his/her contribution is original and that he/she has full power to make this grant. The author signs for and accepts responsibility for releasing this material on behalf of any and all co-authors. The copyright transfer covers the exclusive right and license to reproduce, publish, distribute and archive the article in all forms and media of expression now known or developed in the future, including reprints, translations, photographic reproductions, microform, electronic form (offline, online) or any other reproductions of similar nature.

An author may self-archive an author-created version of his/her article on his/her own website and or in his/her institutional repository. He/ she may also deposit this version on his/her funder’s or funder’s designated repository at the funder’s request or as a result of a legal obligation, provided it is not made publicly available until 12 months after official publication. He/ she may not use the publisher’s PDF version, which is posted on www.springerlink.com, for the purpose of selfarchiving or deposit. Furthermore, the author may only post his/her version provided acknowledgement is given to the original source of publication and a link is inserted to the published article on Springer’s website. The link must be accompanied by the following text: “The final publication is available at www.springerlink.com”.

Prior versions of the article published on non-commercial pre-print servers like arXiv.org can remain on these servers and/or can be updated with the author’s accepted version. The final published version (in pdf or html/xml format) cannot be used for this purpose. Acknowledgement needs to be given to the final publication and a link should be inserted to the published article on Springer’s website, accompanied by the text “The final publication is available at springerlink.com”.

The author retains the right to use his/her article for his/her further scientific career by including the final published journal article in other publications such as dissertations and postdoctoral qualifications provided acknowledgement is given to the original source of publication.

The author is requested to use the appropriate DOI for the article. Articles disseminated via www.springerlink.com are indexed, abstracted and referenced by many abstracting and information services, bibliographic networks, subscription agencies, library networks, and consortia.

After submission of the agreement signed by the corresponding author, changes of authorship or in the order of the authors listed will not be accepted by Springer.
What about content that’s already been published?

Check SHERPA/RoMEO and Publisher websites
Retaining Your Rights

• Retain previous versions of articles
• *Know* your rights
• Get advice
• Negotiate with publishers
A sample CTA addendum:

4. Notwithstanding any terms in the Publication Agreement to the contrary, AUTHOR and PUBLISHER agree as follows:

4.1. **Professional Activities.** Author retains the non-exclusive right to create derivative works from the Article and to reproduce, to distribute, to publicly perform, and to publicly display the Article in connection with Author's teaching, conference presentations, lectures, other scholarly works, and professional activities.

4.2. **Author's Final Version.** Author retains the non-exclusive right to distribute copies of Author's final version by means of any web server from which members of the general public can download copies without charge. "Author's final version" means the final version accepted for journal publication, and includes all modifications from the publishing peer review process.

4.3. **Published Version.** Author has the non-exclusive right to distribute copies of the published version of the Article by means of any web server from which members of the general public can download copies without charge, provided that Author cites the journal in which the Article has been published as the source of first publication, and further, that Author shall not authorize public access to the published version any earlier than six months from the date that Publisher first makes the final, published version available to Publisher's subscribers. "Published version" means the version of the Article distributed by Publisher to subscribers or readers of the Journal.

4.4. **Acknowledgment of Prior License Grants.** Where applicable, Publisher acknowledges that Author's assignment of copyright or Author's grant of exclusive rights in the Publication Agreement is subject to Author's prior grant of a non-exclusive copyright license to Author's employing institution and/or to a funding entity that financially supported the research reflected in the Article as part of an agreement between Author or Author's employing institution and such funding entity, such as an agency of the United States government.

http://www.sparc.arl.org/resources/authors/addendum
Retaining Your Rights

• Publishers with more permissive policies:
  - Cambridge University Press
  - University of Chicago Press
  - University of California Press
  - MIT Press
  - EDP Sciences
  - American Geophysical Union

• Open access journals
  - DOAJ.org
Other Content

• Gray literature and notes
• Datasets
• Primary source material
• Videos
• Blogs
• Lectures
Why Bother?

• Ethics

• Sharing work increases impact, visibility and citations, and access in developing countries.

• Benefits authors, departments, and the University

• Support worthwhile attempts to create a more sustainable publishing system.
Fair Use in Teaching

Fair Use Considerations:
• Purpose and character of use
• Nature of copyrighted work
• Amount used
• Effect on market value
Fair Use in Teaching

Typical Guidelines:

• A chapter of a book
• An illustration from an article
• 10 percent of an audiovisual work
• Five images from a photographer
Questions?

Mark Roquet
mroquet@bepress.com
510 665 1200 x177
@markroquet

bepress
bepress.com
@bepress