Unlocking IP
16 April 2009

“Copyright in Wikimedia/Wikimedia in Copyright”

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Intro

• Everything we know about copyright we have learnt from Wikipedia.

• We are not academics, lawyers or professionals but we deal with copyright everyday.

• What we have to share is how copyright is interpreted, and affected, by people with no legal background.
• We wish to share our experience in four specific areas:

1) International public-domain
2) License interoperability
3) Derivative works
4) Non-commercial

• We would love to hear your informed opinion of our uninformed ideas
International copyright

As practiced by Wikimedia Commons
Our philosophy

“We will obey the rules as very best we can. Which rules? ALL the rules!”
SCHOOL RULES AND REGULATIONS

TARDY POLICY

1. A student is considered tardy if he/she is not in the classroom when the teacher begins the class.
2. A student receives his/her first caution when tardy.
3. A student receives his/her second caution when tardy.
4. A student receives his/her third caution when tardy.
5. A student receives his/her fourth caution when tardy.
6. A student receives his/her fifth caution when tardy.
7. A student receives his/her sixth caution when tardy.
8. A student receives his/her seventh caution when tardy.
9. A student receives his/her eighth caution when tardy.
10. A student receives his/her ninth caution when tardy.
11. A student receives his/her tenth caution when tardy.
12. A student receives his/her eleventh caution when tardy.
13. A student receives his/her twelfth caution when tardy.
14. A student receives his/her thirteenth caution when tardy.
15. A student receives his/her fourteenth caution when tardy.
16. A student receives his/her fifteenth caution when tardy.
17. A student receives his/her sixteenth caution when tardy.
18. A student receives his/her seventeenth caution when tardy.
19. A student receives his/her eighteenth caution when tardy.
20. A student receives his/her nineteenth caution when tardy.
21. A student receives his/her twentieth caution when tardy.
22. A student receives his/her twenty-first caution when tardy.
23. A student receives his/her twenty-second caution when tardy.
25. A student receives his/her twenty-fourth caution when tardy.
26. A student receives his/her twenty-fifth caution when tardy.
27. A student receives his/her twenty-sixth caution when tardy.
28. A student receives his/her twenty-seventh caution when tardy.
29. A student receives his/her twenty-eighth caution when tardy.
30. A student receives his/her twenty-ninth caution when tardy.
31. A student receives his/her thirtieth caution when tardy.
32. A student receives his/her thirty-first caution when tardy.
33. A student receives his/her thirty-second caution when tardy.
34. A student receives his/her thirty-third caution when tardy.
35. A student receives his/her thirty-fourth caution when tardy.
36. A student receives his/her thirty-fifth caution when tardy.
37. A student receives his/her thirty-sixth caution when tardy.
38. A student receives his/her thirty-seventh caution when tardy.
39. A student receives his/her thirty-eighth caution when tardy.
40. A student receives his/her thirty-ninth caution when tardy.
41. A student receives his/her fortieth caution when tardy.
42. A student receives his/her forty-first caution when tardy.
43. A student receives his/her forty-second caution when tardy.
44. A student receives his/her forty-third caution when tardy.
45. A student receives his/her forty-fourth caution when tardy.
46. A student receives his/her forty-fifth caution when tardy.
47. A student receives his/her forty-sixth caution when tardy.
48. A student receives his/her forty-seventh caution when tardy.
49. A student receives his/her forty-eighth caution when tardy.
50. A student receives his/her forty-ninth caution when tardy.
51. A student receives his/her fiftieth caution when tardy.
52. A student receives his/her fifty-first caution when tardy.
53. A student receives his/her fifty-second caution when tardy.
54. A student receives his/her fifty-third caution when tardy.
55. A student receives his/her fifty-fourth caution when tardy.
56. A student receives his/her fifty-fifth caution when tardy.
57. A student receives his/her fifty-sixth caution when tardy.
58. A student receives his/her fifty-seventh caution when tardy.
59. A student receives his/her fifty-eighth caution when tardy.
60. A student receives his/her fifty-ninth caution when tardy.
61. A student receives his/her sixtieth caution when tardy.
62. A student receives his/her sixty-first caution when tardy.
63. A student receives his/her sixty-second caution when tardy.
64. A student receives his/her sixty-third caution when tardy.
65. A student receives his/her sixty-fourth caution when tardy.
66. A student receives his/her sixty-fifth caution when tardy.
67. A student receives his/her sixty-sixth caution when tardy.
68. A student receives his/her sixty-seventh caution when tardy.
69. A student receives his/her sixty-eighth caution when tardy.
70. A student receives his/her sixty-ninth caution when tardy.
71. A student receives his/her seventieth caution when tardy.
72. A student receives his/her seventi-first caution when tardy.
73. A student receives his/her seventi-second caution when tardy.
74. A student receives his/her seventi-third caution when tardy.
75. A student receives his/her seventi-fourth caution when tardy.
76. A student receives his/her seventi-fifth caution when tardy.
77. A student receives his/her seventi-sixth caution when tardy.
78. A student receives his/her seventi-seventh caution when tardy.
79. A student receives his/her seventi-eighth caution when tardy.
80. A student receives his/her seventi-ninth caution when tardy.
81. A student receives his/her eightieth caution when tardy.
82. A student receives his/her eighty-first caution when tardy.
83. A student receives his/her eighty-second caution when tardy.
84. A student receives his/her eighty-third caution when tardy.
85. A student receives his/her eighty-fourth caution when tardy.
86. A student receives his/her eighty-fifth caution when tardy.
87. A student receives his/her eighty-sixth caution when tardy.
88. A student receives his/her eighty-seventh caution when tardy.
89. A student receives his/her eighty-eighth caution when tardy.
90. A student receives his/her eighty-ninth caution when tardy.
91. A student receives his/her ninetieth caution when tardy.
92. A student receives his/her nineti-first caution when tardy.
93. A student receives his/her nineti-second caution when tardy.
94. A student receives his/her nineti-third caution when tardy.
95. A student receives his/her nineti-fourth caution when tardy.
96. A student receives his/her nineti-fifth caution when tardy.
97. A student receives his/her nineti-sixth caution when tardy.
98. A student receives his/her nineti-seventh caution when tardy.
99. A student receives his/her nineti-eighth caution when tardy.
100. A student receives his/her nineti-ninth caution when tardy.

BULLYING

Student involvement or participation of persons of school personnel or their families. Disciplinary action by civil action, penalties ranging intervention to the

DEFINITIONS

1. ALTERING OR FORGING DOCUMENTS/HOME RECORDS - This includes altering or forging of document including passes, re-entries report cards, transcripts, computer/online

PENALTIES

1. First Offense: One warning
2. Second Offense: Two warnings
3. Third Offense: Three warnings
4. Fourth Offense: Four warnings
5. Fifth Offense: Five warnings
6. Sixth Offense: Six warnings
7. Seventh Offense: Seven warnings
8. Eighth Offense: Eight warnings
9. Ninth Offense: Nine warnings
10. Tenth Offense: Ten warnings

Students who are late to class by 20 minutes will be considered absent.

DRIVING - STUDENT PARKING PERMITS

Due to limited parking space, driving permits will not be available to all students.
Within Wikipedia

Fair use policies usually follow national law.

Relying on fair use claims is generally seen as an excuse, not a legitimate right.
Non-free images
You're using them wrong
Within Wikimedia Commons

Needs to satisfy the policy of every other project

Rights requirement:
- explicitly freely licensed, or
- PD in US + source country
Deletion culture

Admins can delete, but not by fiat

Most common reasons:
Inappropriate, or “copyvio”

Two deletion processes:
speedy deletion and deletion requests
Keep The US constructed an image from intercepted signals, but those signals were free, transmitted by a machine from somewhere in orbit, and there was no photographer. /Pieter Kuiper (talk) 18:59, 24 February 2009 (UTC)

Keep of course. Image has been reconstructed from a free and open transmission of radio signals. Everyone who received it and was able to decode image can legitimate as an owner of his own copy. Ownership of the camera is not equal with copyrights of the image generated by it /NH2501 (talk) 20:49, 24 February 2009 (UTC)

That is ridiculous. You mean, that I own a copyright on every TV programe I ever have received. Cool. sycro 20:59, 24 February 2009 (UTC)

What I meant was the electromagnetic signal carrying an image of Gagarin or image of him alone was not copyrighted. If discussed image was a copy of image rendered by USSR then one can say about violation of copyrights. This image was created (rendered) by US goverment worker so is PD. NH2501 (talk) 17:51, 25 February 2009 (UTC)

Now you caught my attention. Why would the radio signal transmitting the image be not copyrighted? I thought it doesn’t matter in what form a work is stored. -- Lychee (talk) 01:39, 26 February 2009 (UTC)

In this case radio signal was not a way of storing information but transmitting it. It has been sent once a don’t exist any more. Disscased image is a form of storing and is PD cause is made by US Gov labour. That’s my point of view. I think we need here some copyright specialist, I think :-) NH2501 (talk) 16:59, 1 March 2009 (UTC)

Well, the way I see it the image is “stored” in the radio transmission for the time of that transmission. If what you say is true, the USGov could make every radio program or TV show or even the whole internet PD by decoding the transmission signals, as Sycro said above. I doubt this is true. -- Lychee (talk) 04:42, 2 March 2009 (UTC)

Delete The copyright of this image is owned by its creator. The argument of “no photographer” is wrong. Photographs do not pop into existence out of the void. There is always somebody who set up the camera and illumination, who designed the apparatus to take the pictures even if automatically. If in doubt, he who had the idea that there shall be a photo and decided what shall be depicted, is the creator. A photo can have several creators at once, but it cannot have no creator at all. The other argument of “free signals” is completely bogus. The copyright is on the content, not on the media. In any case, it is not the work of the United States Federal Government and therefore {{PD-USGov}} does not apply. -- Rotkraut (talk) 20:12, 9 March 2009 (UTC)

Comment As Gagarin was alone, the camera was not operated by somebody, but was automatic. Don’t you think that this makes the images from this camera {{PD-ineligible}}? To me, it doesn’t seem different than recent video monitoring, on which there is no copyright. Yann (talk) 20:21, 9 March 2009 (UTC)

Gagarin's face was not just coincidently in the visual field of the camera. Somebody put the camera right there to be able to take images of Gagarin during the flight. I don’t lose the copyright on my photographs if i use the delayed action release on my camera. Copyright does not depend on a certain recording technique, but on the idea to take the picture and on the arrangement of what shall be on the picture. {{PD-ineligible}} has nothing to do with a lack of a creator, but it applies only if the work does not pass the threshold of originality. This is almost never the case for photographs. --Rotkraut (talk) 20:59, 9 March 2009 (UTC)

I'm thinking about a reason to keep this image since I stumbled on this request because it's irreplaceable, but I fear that Rotkraut is right. -- Lychee (talk) 05:34, 10 March 2009 (UTC)

Where is the originality in this image? I don't see any. Gagarin's face was not just coincidently in the visual field of the camera. Seeing the size of the capsule, it can't be otherwise. And no, nobody "put the camera right there", because he was alone. Yann (talk) 12:48, 10 March 2009 (UTC)

Sure, nobody took Gagarin's photo up there, but at least someone had to mount the camera there when the capsule was assembled. I'd say they made sure that Gagarin's head was on a picture taken by this camera when doing that, because, as you say, it was clear where Gagarin would be, because he couldn't move around a lot. I don't see the difference to putting a camera on a stand and taking a picture with autotimer. -- Lychee (talk) 16:33, 10 March 2009 (UTC)

Deleted. Not PD-USGov, because the US government was not involved in the creative process of creating the image. Just recording a transmission created by someone else doesn't make you copyright holder (refer to the given TV example). Not PD-ineligible, because someone put the camera there and selected the angle. This has, of course, been done before the spaceship was launched, as the image was obviously taken by a mounted camera, but is nevertheless a creative action and thus the image is copyrighted by the "photographer".
Deletion requests

Anyone can respond - provide reasons rather than merely vote

Admins “close” according to “consensus” and act accordingly

Over 36,000 deletion requests in Wikimedia Commons since Sep 2004!
(4.2m files total, Apr 2009)
Logos & trademarks

Are logos protected by (C) or TM?

TM law is not (C) law - should we comply with it?

Many logos are very simple designs - do they pass Germany’s “sweat of the brow” requirement?
Australian PD

For images published between 1946-1955: are they PD? In the US?

URAA=> If pub. 1923-1978, still in copyright at 1996, restored to 95 year term?

FTA => forced copyright extinguishment in the US?
Breaking contracts

If a museum or event has “conditions of entry” that exclude all (commercial) photography, are you “allowed” to distribute photos taken there (under a license that allows commercial use)?
Personality rights

Wikimedia Commons’ “BLP”

How could we verify “self-taken” photos?

What is a “public” setting and what is not?
Licensing update

or, How Wikipedia is escaping the GFDL
Escape plan:

1. Escape from unsuitable viral license.
   a. Get an escape clause in current license. (DONE)
   b. Get agreement on using the escape clause. (IN PROGRESS)
   c. Implement the new licensing terms. (TBC)
2. ???
3. PROFIT!
GFDDL?
Wikipedia = GFDL?

2000, March
Nupedia begins, using custom license.

2001, January
Nupedia switches to GFDL at FSF’s urging.
Wikipedia begins, using GFDL.

2001
Creative Commons is founded.

2002, December
Creative Commons releases first set of licenses.
What’s wrong with it?

Clearly designed for documentation in particular, not text works in general

Invariant sections (not used by Wikipedia, thankfully...)

Title changes!

Full license text!!
"Massive Multiauthor Collaboration Site" (or "MMC Site") means any World Wide Web server that publishes copyrightable works and also provides prominent facilities for anybody to edit those works. A public wiki that anybody can edit is an example of such a server. A "Massive Multiauthor Collaboration" (or "MMC") contained in the site means any set of copyrightable works thus published on the MMC site.

An MMC is "eligible for relicensing" if it is licensed under this License, and if all works that were first published under this License somewhere other than this MMC, and subsequently incorporated in whole or in part into the MMC, (1) had no cover texts or invariant sections, and (2) were thus incorporated prior to November 1, 2008.

The operator of an MMC Site may republish an MMC contained in the site under CC-BY-SA on the same site at any time before August 1, 2009, provided the MMC is eligible for relicensing.
Escaping to what?

Why CC-BY-SA?

http://meta.wikimedia.org/wiki/Licensing_update/License_comparison
Vote **YES!**

For licensing sanity!

Voting ends

2009-05-03

GFDL to CC-BY-SA
Credits

- School rules boy, CC-BY by zzellers.
  http://www.flickr.com/photos/zac-attack/1338216107/

- Nonfree image lolcat, CC-BY-A by User:Future_Perfect_at_Sunrise.
  http://commons.wikimedia.org/wiki/File:Nonfree_image_Lolcat.jpg

- Chicken wrapped in prosciutto, CC-BY-SA by Gio JL.
  http://www.flickr.com/photos/giovannijl-s_photohut/335163752/

- Delete, CC-BY-SA by ruurmo.
  http://www.flickr.com/photos/rufino_uribe/188226305/

- Screenshot of a deletion request. The original text is GFDL.
  http://commons.wikimedia.org/wiki/Commons:Deletion_requests/File:Gagarin_Vostok_1_ELINT.jpg

- “Headache” cat, CC-BY by Jarosław Pocztarski.
  http://www.flickr.com/photos/j-pocztarski/2661556794/

- Logo2.0 Part II, CC-BY-NC-SA by Stabilo Boss.
  http://www.flickr.com/photos/stabilo-boss/101793493/

- Gumtree blossom, CC-BY-SA by Katjung.
  http://www.flickr.com/photos/katjung/347707617/

- KUMU Art museum, CC-BY-SA by Marcus Vegas.
  http://www.flickr.com/photos/vegas/481764986/

- Liverpool Street station crowd blur, CC-BY by victoriapeckham.
  http://www.flickr.com/photos/victoriapeckham/164175205/
Credits

- Lunchtime escaping, CC-BY by Sam Judson.
  http://www.flickr.com/photos/samjudson/184050100/

- Stylised gnu, Free Art License by Aurelio A. Heckert.
  http://commons.wikimedia.org/wiki/File:Heckert_GNU_white.svg


- Upset lion, CC-BY-SA by Mr Wabu.
  http://www.flickr.com/photos/oxborrow/79745479/

- From the frying pan into the fire, CC-BY-SA by amyvmeck.
  http://www.flickr.com/photos/32521414@N00/3198522428/

- So many kittens, CC-BY-SA by Clevergrrl.
  http://www.flickr.com/photos/clevergrrl/218312633/

- Vote yes poster, CC-BY by Brianna Laugher.
  http://commons.wikimedia.org/wiki/File:Propaganda_poster_for_Wikimedia_licensing_vote_-_vote_yes_for_licensing_sanity.svg
(3) Derivative works, Database dumps & the Right to fork.
Derivative Works in Theory

- CC-by-sa: “You may Distribute or Publicly Perform an Adaptation only under the terms of: (i) this License; (ii) a later version of this License with the same License Elements as this License; (iii) a Creative Commons jurisdiction license (either this or a later license version) that contains the same License Elements as this License (e.g., Attribution-ShareAlike 3.0 US)); (iv) a Creative Commons Compatible License.”

- GFDL: “This License is a kind of "copyleft", which means that derivative works of the document must themselves be free in the same sense. It complements the GNU General Public License, which is a copyleft license designed for free software.”
Derivative works in Practice (2)

• If you don’t have a copy of the work, you can’t modify/add to or preserve the work.

• For example: Ancient Library of Alexandria

  Illegal to export reeds / knowledge of papyrus

  = Secret source-code

  All books copied in

  = Enforced border security check

  Nothing lent out

  = No share-alike
Derivative works in Theory (3)

- Without the ability to access, copy & share there was no ability to adapt and grow the culture.

- Alexandria was a cultural black hole. Everything in, nothing out.

- And without the right to derivative works then Wikimedia would be too too.
Derivative Works in Practice

• To make an alteration of a work you need a copy of that work.
Derivative Works in Practice (2)

• English Wikipedia has completed a full database dump approximately every 2 years.

• It is approximately 2 terabytes and takes 3 months+...
Derivative Works in Practice (3)

- Therefore, if we cannot provide a successful database dump - a copy of the work - then are we breaking copyright?

- Is the reason no one enforces derivative licensing because the remixers are potential not actual?
• The theory of Derivative Works + the practice of Database Dumps =

The right to Fork

• Enciclopedia Libre Universal en Español

• Citizendium The Citizens' Compendium beta
(4) Non-commercial but not “Non-commercial”.
Non-commercial in theory

• *Gratis* v. *Libre* - free(beer) or free(speech)

• “free culture” is refers to the latter

• “Non-commercial” is gratis but not libre in that it restricts the rights of others

• Therefore, as a participant in the “free-culture movement” we don’t allow NC
Non-commercial in theory (2)

- we used to allow works for “wikipedia only” and also for “educational use only”
- now we only accept:
  - Text - GFDL (cc-by-sa)
  - Media - PD / cc-by / cc-by-sa / GFDL (or equivalents)
- None of these restrict commercial use
Non-commercial in theory (3)

- CC-by-nc: “You may **not** exercise any of the rights granted to You ... in any manner that is primarily intended for or directed toward commercial advantage or private monetary compensation.”

- We decided that if we were to be involved in “free-culture” we realised that free didn’t just mean for us, but free for all. Otherwise we would just be just another licensee rather than fulfilling our mission.
Imagine a world in which every single human being can **freely share** in the sum of all knowledge.
Non-commercial in practice

• So much of our culture is commercial in some form, to deny this on Wikimedia’s scale would be to create a cultural ghetto.

• what constitutes commercial usage:
  • cost-recovery?
  • a minor part within a commercial work?
  • usage by a non-profit organisation?
  • usage in a free publication by a company?
but not

“Non-commercial”!

• Wikimedia and all of its projects (Wikipedia, Commons etc.) are militantly non-commercial.

• For reasons of: independence; avoidance of bias volunteer community; focus on mission
but not

“Non-commercial”! (2)

• Therefore we are in the paradoxical situation of being a non-commercial organisation which does not accept content that is non-commercial. Both for the same reason:
Thank you

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