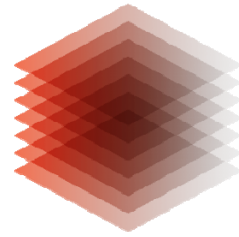

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Becoming an author

Elke Brehm,
Göttingen, June 7th 2016
Young Scientist Day

Agenda ohne Hintergrundgrafik

1. Introduction to copyright law
2. A licence agreement
 - Hands-on group work
 - discussion
3. A few short notes on Open-Access-Licences

Use of copyrightable works published on the internet

Copyright law is national law: applicable law depends on facts of the case

Similarities of national copyright laws:

- scientific texts, illustrations, abstracts, etc. will **generally be protected by copyright law**
- **Fair-Use-Doctrine** or **statutory exceptions** exist

Use of copyrightable Works published on the internet

Statutory exceptions (German Copyright Code)

Documents published online may generally only be used in part for the users „Own Use“ („eigener Gebrauch“):

Allowed e. g.: Download, store, read, cite, pass on to friends, make available small parts on password-protected platform for working group (for teaching/research purposes)

Not allowed e. g.: Make available entire text freely accessible for everyone online, create derivatives and distribute derivatives to unknown Third Parties, commercial use

Exception: Open-Access-Licenses

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Who is the author/“creator“?

Creator is the person who **created** the work („copyright owner“).

All rights to the work belong to creator.

Exceptions:

- work was created **by several persons in close cooperation**
- work was created while fulfilling work obligations (right of direction of superior); not applicable for professors, doctoral students for their doctoral thesis
- obligations to publish due to publication agreements (third party funding)

Rights of the creator – meaning of „copyright“ (German Copyright Code)

Moral Rights:

protection of author´s/creator´s personal relationship to his/her work

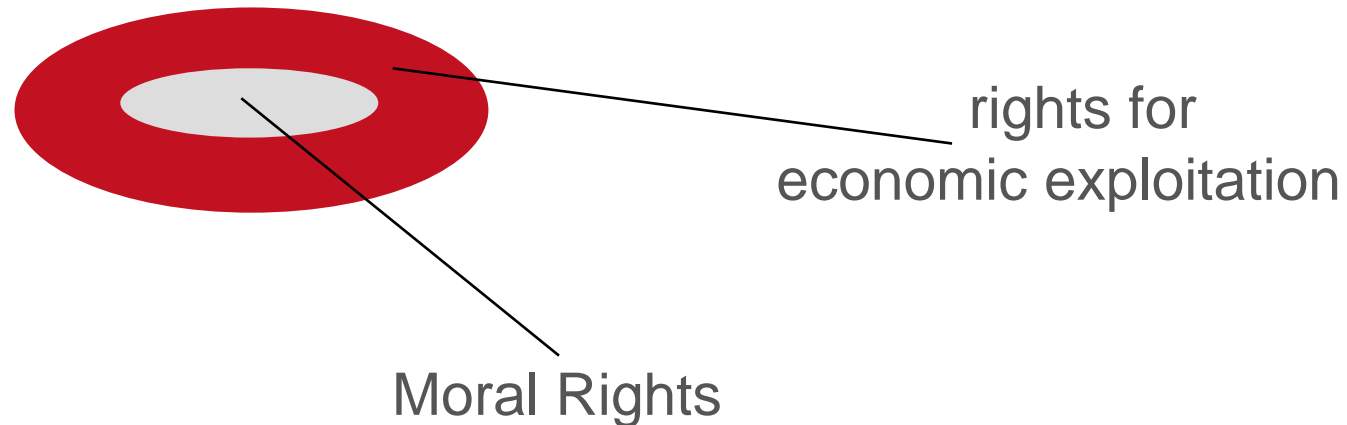
- time and place of first publication
- attribution
- prevent disfigurement, interference

Economic exploitation of the work:

- copy
- distribute (~pass on digital or analogue copies)
- exhibition
- „public representation“: presentation, performance, making publicly available (~online-publication)

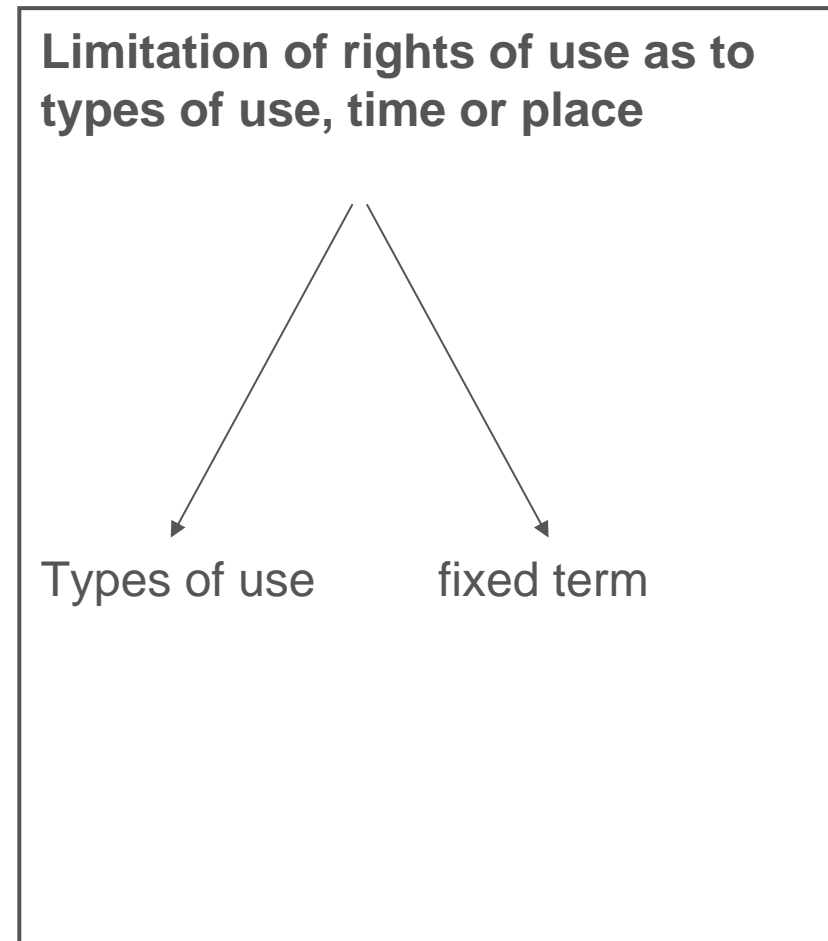
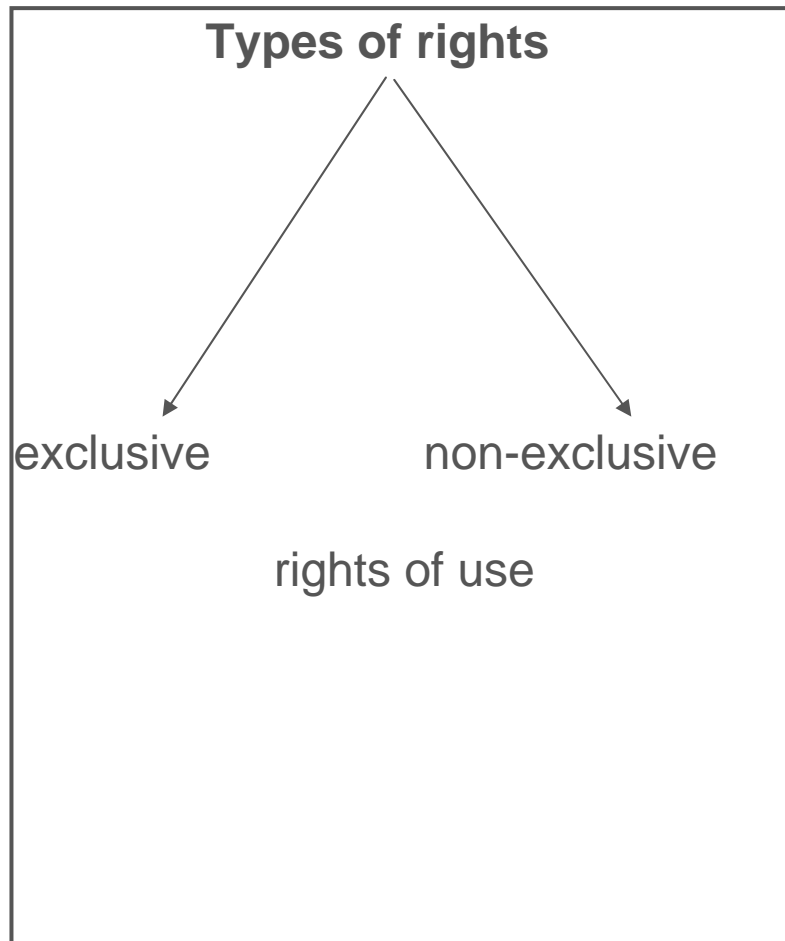
Licence contracts

- in Germany copyright cannot be transferred to others completely



- author/creator can transfer rights for economic exploitation
- licence contracts are bilateral agreements in all countries

Licence contracts to distinguish:



Publication

Licence contract

Content e.g.:

- title of publication and contractual parties
- scope of granted rights (exclusive – non-exclusive, limitations of time, place and types of use)
- exemption from liability for violation of rights of Third Parties

Form of the contract: Written form (handwritten signature) only obligatory in special cases

But: Legal proof in court of law – email has low probative value

→ written form is recommended.

Publication



Primary publication: first-time publication of work

Secondary publication: Publication of work, which has already been published e. g. in institutional or subject specific repository or by a publishing company

Additional considerations:

- Boundaries of **right to cite other publications** for scientific purposes
- **Patent law:** No publication before official application to patent authorities
- **Data protection:** Publication of information about specific identifiable individuals only with their explicit consent or in anonymised form

Open-Access-Licences

Creator can grant additional usage rights to the user which exceed statutory exemptions or Fair Use, e. g. ...

- to distribute work
- to create derivatives of work, distribute derivatives
- commercial use

They adhere to the recommendations of the Berlin Declaration on Open Access to Knowledge in the Sciences and Humanities

<http://oa.mpg.de/lang/de/berlin-prozess/berliner-erklarung/>

Generally legally sound, have been subject of legal disputes in Germany

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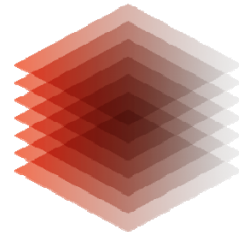
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Contact

Elke Brehm

T +49 511 762-8138, elke.brehm@tib.eu