Becoming an author

Elke Brehm,
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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

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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

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Statutory exceptions (German Copyright Code)

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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)

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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)

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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

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Licence contracts
to distinguish:

Types of rights

- exclusive
- non-exclusive

Limitation of rights of use as to types of use, time or place

- Types of use
- fixed term

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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.

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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

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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

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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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