

# Terminology and Copyright



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Issues in Terminology Management*

# Copyright Issues for Terminology Management



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# Disclaimer



**The following information is the result of extended research over a course of years, together with Christian Galinski. However it is important to note:**

**The author is not a lawyer and not authorized to practice law in any venue. Furthermore, copyright laws and court rulings vary over time and from venue to venue.**

**In serious questions involving copyright practice or litigation, the advice of an attorney licensed to practice in the affected venue is essential.**



# The Purpose of Copyright Protection:

**The US Constitution:  
“The Progress of Science  
and the Useful Arts”**



# Primary “Players”



## ✦ AUTHORS

- ◆ Originators of intellectual property (works)

## ✦ USERS

- ◆ Readers, scholars, people who cite documents, etc.



# Secondary Copyright Holders

- Publishers, licensees
- Distribution centers
- Collecting societies
- Agents





# The Role of the Terminologist



- As user of copyrighted material
- As author of potentially copyrightable databases
- Vis-à-vis collecting societies, agencies, publishers, etc.

# The Terminologist's Role as USER



- Reuse of textual material (text chunks) for:
  - ◆ Definitions
  - ◆ Context!
  - ◆ Explanatory notes and other support materials



# As Author (Originator, Creator)




- ✦ Terminological collections viewed as compilations:
  - ◆ Works “formed by the collection and assembling of pre-existing materials or of data that are selected, coordinated, or arranged in such a way that the resulting work as a whole constitutes an original work of authorship”

# Copyrightability: Not Protected



- ✦ Copyright does not protect:
  - ◆ Information and ideas
  - ◆ Names (which can be covered by trademark and trade name laws)
  - ◆ Lists of observations

# Copyrightability: Not Protected

- 
- ✦ Copyright does not protect:
    - ✦ Words and idioms (collocations and phraseological units)
    - ✦ Short utterances such as sentence fragments or single sentences
    - ✦ Databases consisting solely of facts, such as telephone directories

# Copyrightability: Basic Principles of Protection



- The original expression and arrangement of knowledge.
- Personal original intellectual creation
- Individual or corporate author
- Works fixed in a tangible medium
- The printed page (or hand-written, typed, etc.)

# Copyrightability: Protection by Genre



- Audio or visual media
- Film, video, records, tapes, compact disks
- Other carriers or embodiments of the original work (e.g., sculptural reproductions, castings, prints)
- Beginning of copyright protection: when the ink dries on the paper



# FBI WARNING



Federal Law provides severe civil and criminal penalties for the unauthorized reproduction, distribution or exhibition of copyrighted motion pictures, video tapes, DVDs or video discs. Criminal copyright infringement is investigated by the FBI and may constitute a felony with a maximum penalty of up to five years in prison and/or a \$250,000 fine.

**DO NOT COPY THIS TAPE!**



# Copyrightability: Protected Primary Works

- ✦ Works of literature, science, and art, e.g., novels, textbooks, essays, and speeches
- ✦ Musical works and sound recordings
- ✦ Choreographed works (ballet) and pantomimes
- ✦ Visual arts, e.g., paintings and sculpture

# Authors' Moral Rights



- Civil law intellectual property rights vs.
- Authors' moral rights (non-transferable personal rights)
  - ◆ Right of publication
  - ◆ Right to be recognized as the author of a work
  - ◆ Right to prevent misrepresentation or unauthorized modification of a work

# Anglo-American Copyright



- Fully transferable rights to exploitation of works
- Right to reproduce the work
- Right to prepare derivative works
- Right to distribute copies (right of first sale)
- Right to perform the work publicly
- Right to display the work publicly

# Limits to Copyright Protection

- ✦ Term of copyright: the author's life plus 70 year extension\*
- ✦ (Varies according to national and regional law)
  - ◆ \*Actually, there are several different factors that apply, so you need to check details in any given case.

# Limits to Copyright Protection



- Fair use and your termbase
  - ◆ **Purpose and character:** For educational or scholarly purposes
  - ◆ **Nature of the copyrighted work:** Creative work or informational?
  - ◆ **Amount and substantiality:** Minimal excerpts with citations
  - ◆ **Effect on potential market for protected work:** Basically non-commercial
  - ◆ Problems arise if you want to market or share your resources

# European Database Directive (96/9/EC of 1996-03-11)



- The sui generis right of 1996 covering non-copyrightable database information:
  - ◆ Compilations of data or other material, whether in machine readable or other form, which by reason of the selection or arrangement of their contents constitute intellectual creations, shall be protected as such.



# European Database Directive (96/9/EC of 1996-03-11)



- Such protection, which shall not extend to the data or material itself, shall be without prejudice in any copyright subsisting in the data or material itself. (GATT 1994)
- Term of Protection: 15 years, plus renewal for a “substantial verification”

# Copyrightability of Terminology According to Data Category

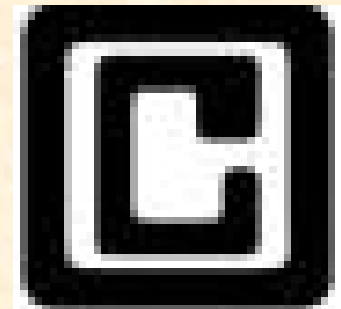


- ❖ Not covered:
  - ❖ Terms and symbols never covered
  - ❖ Definitions and descriptive texts
  - ❖ US: usable under fair use practice
  - ❖ But “fair use” disappears under the European law

# Copyrightability of Terminology According to Data Category



- Possibly covered:
  - ◆ Compilation component & linkages
  - ◆ Database component under sui generis provisions
  - ◆ Content not covered



# Copyrightability of Terminology According to Data Category



- Data type concerns:
  - ◆ Photos and drawings or parts thereof definitely are covered
  - ◆ Some types of formulas are covered

# Digital Environments



- The flow of free information vs. the free flow of information
- The dissolution of form and fixed expression
  - ◆ Manipulation, modification, fragmentation
  - ◆ Sampling
  - ◆ Unlimited copy capability



# Digital Environments



- TBX (TermBase eXchange)
  - ◆ LISA/OSCAR/ISO xml-based terminology interchange standard
  - ◆ Variable entry format from source to target database
  - ◆ Loss of data from category-rich to category-poor systems
  - ◆ Stable factor: linkages, the relative integrity of relationships within the term entry



# Basic Units of Intellectual Property



- Defining basic units
- Arbitrary units of pre-specified lengths
- Logically defined units (individual data categories or parts thereof)
- Rugged identification

# Basic Units of Intellectual Property



- ✦ Steganography, (Digital finger-printing or digital watermarking)
- ✦ Advantages
  - ◆ Data security
  - ◆ Data protection
  - ◆ Accounting
  - ◆ Product liability



# Standards For Identification




- ✦ ISO
- ✦ ISBN - International Standard Book Numbering (ISO 2108)
- ✦ ISSN - International Standard Serial Numbering (ISO 3297)

# Standards For Identification



- ISRC - International Standard Recording Code (ISO/DIS 3901)
- ISRN - International Standard Technical Report Number (ISO 10444)
- ISMN - International Standard Music Number (ISO 10957)

# Collecting Societies

- 
- International Confederation of Societies of Authors and Composers (CISAC):
    - ◆ International Standard Work Code
    - ◆ The International Article Numbering Association (EAN)
    - ◆ Electronic data interchange (EDI) standards

# Copyright Ownership



- The position of literary translators
  - ◆ Retention of copyright for literary translations as derivative works
  - ◆ Share in author's royalties for translated works
  - ◆ Standard PEN contract for literary translation



# Copyright Ownership



- Salaried Employees
- Independent Contractors & “Work made for hire”
  - ◆ Defined scope of work
  - ◆ Undefined scope of work
  - ◆ Confidentiality
  - ◆ Client relations



# Copyright Ownership

- The position of university personnel and students
- The position of in-house translators
- The position of freelance translators
- Open dissemination of information
  - ◆ Example: The Microsoft GUI Guide, online glossaries

# Web Resources



- <http://www.smashingmagazine.com/2007/07/07/copyright-explained-i-may-copy-it-right/>
- US Patent office:
  - ◆ <http://www.copyright.gov/help/faq/>
- Digital Milenium Copyright Act
  - ◆ <http://www.eff.org/issues/dmca>
- European Union Copyright Directive
  - ◆ [http://en.wikipedia.org/wiki/Copyright\\_Directive](http://en.wikipedia.org/wiki/Copyright_Directive)

# Plagiarism



- [http://www.plagiarism.org/plag\\_article\\_types\\_of\\_plagiarism.html](http://www.plagiarism.org/plag_article_types_of_plagiarism.html)
- <http://owl.english.purdue.edu/owl/resource/589/01/>
- [http://www.checkforplagiarism.net/?gclid=CL6svLnvk5oCFQ\\_yDAodBE\\_PNQ](http://www.checkforplagiarism.net/?gclid=CL6svLnvk5oCFQ_yDAodBE_PNQ)

# For More Information



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