



Brain@work

A concrete example of a training course
*Legal Aspects of scientific publishing in connection
with Open Access*

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Why ?

- **Starting point** : researchers are not clear about their rights and obligations under copyright law
- objectives :
- ✓ to give a **broad overview of the general principles** of copyright law and Open Access in Belgium, in the FW-B and at the University of Liege
 - ✓ To enable researchers to **apply those guidelines to their personal situation** and to specific issues

How ?

- **In theory :**

- ✓ Researchers are invited to submit practical issues – at least 10 days prior to the training course – by e-mail sent to the trainer
- ✓ The training course shall include a theoretical part (lecture) and a part specifically dedicated to the analysis of case studies

- **In practice :**

- ✓ no questions are submitted
- ✓ only « ex cathedra » training is delivered + examples

Plan

- The origins of copyright
- Legal framework : international – European Union - Belgium
- The **general principles of copyright** (scope of the copyright protection – copyright ownership – rights of author - exceptions and limitations – contract agreement and contract management - ...)
- **Open Access**
 - ✓ on the international arena
 - ✓ in Belgium
 - ✓ at the University of Liege

General principles

- **Scope of copyright protection**

- ✓ The condition of originality
- ✓ The exclusion of the mere ideas

- Specific focus on **scientific publication** :

- ✓ **Ideas, bare facts, mathematical concepts, procedures, methods of operation = no protection** under copyright law → basically free
- ✓ If facts have been put into a certain form → **copyright protection**
- ✓ If facts constitute a protected database or data collection → **data base protection**

General principles

- **Copyright ownership** – presumption of authorship – the symbol © - works created by several persons
- **Author's rights**
 - ✓ Economic rights – “bundle of rights”, harmonized at a EU level, which the author can either transfer or license - the right of communication to the public requires special attention (the concept of « public » - hyperlinks)
 - ✓ Moral rights – protect the author's personality – can be waived - the right of integrity is of particular importance

General principles

- **Limitation to copyright protection**

- ✓ Protection arises only for a certain period of time – joint authorship
- ✓ Exceptions in favour of education and scientific research (right to quote and exceptions for school and universities – strict conditions to fulfill in order to comply with each exception – concrete examples : eCampus, ReaserchGate, ...)
- ✓ New EU directive – new exceptions – text & datamining

General principles

- **Transfert of rights :**
 - ✓ Assignement vs. licensing
 - ✓ Each right may be transfered or licensed separately - ! Publication agreement
 - ✓ Conditions for a valid transfer
 - ✓ Proof of transfer
- **Copyright infringement** (action for an injunction - damages – act of counterfeiting – malicious or fraudulent intent)

Open Access

- **On the international arena** – general framework - ≠ stages in the publication cycle
- In **Belgium** : 2 new legislations
 - ✓ art. XI. 196 §2/1 ELC – **right to make** the manuscript (postprint version after peer-reviewing) **available for free in OA to the public**
 - ✓ **Decree of the French Community of 3rd of May 2018** regarding the introduction of an OA policy on scientific publication - **obligation of deposit** in an institutional repository

Open Access

- **At the University of Liege : ORBi** (legal aspects)
 - ✓ in which cases **access to the full text** within ORBi could be "**open**" (i.e. available from the internet) → if the author has the required rights
 - ✓ **Repository license** : warrants the University that the author retains the necessary rights for electronic distribution of his/her works - **Non-exclusive** - granted on a **worldwide scale**, for **all the duration of copyright protection** and without any payment of remuneration – right of integrity

Open Access

- **At the University of Liege : ORBi (legal aspects)**
 - ✓ End-user license : **read, download, copy and print** (≠ uses from OA Declarations) + **Right to quote** - no modification - no commercial purpose
- **Few recommandations**
- **Questions & answers**
- **Information resources**

From final conclusions...

- **Vast subject matter – very technical** - Lot of debate/controversy
→ difficult to provide relevant guidelines in half a day
- The course **raises awareness and focus attention** on copyright issues instead of learning the ins and outs of copyright law
→ initiate a **process of reflection**
→ **authors seek for assistance** and support
- Request for **further informations on other topics** (protection of database, plagiarism, big data, protection of personal data, ...)

To actions ?

- Adjust the **training period** ?
 - ✓ already substantially increased (from 1H30 to 3H)
 - ✓ Longer than 3 hours ?
 - not so easy for researchers to devote one whole day for such a training course
 - from an educational point of view, , the training material has to be further adapted and training has to be provided in a much more interactive way
- Adjust the **training content** : touch more topics - a few words about the broad points

Thank you for your attention

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