

ICT International Doctoral School
DISI UNITN

Copyright and Open Access in the Digital Age

Monday January 27, 2020

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University of Trento



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Agenda

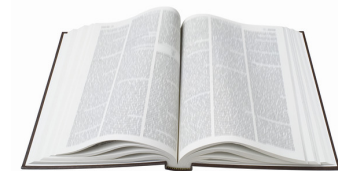
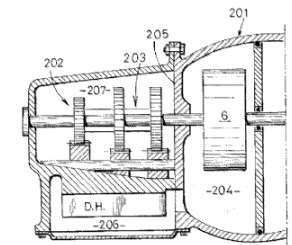
1. IPR and Copyright in a nutshell
2. Copyright in the digital age
3. Open Access to Scientific Publications
4. Open licenses

1

Intellectual Property Protection: in a nutshell

Overview of intellectual property

Legal right	What for?	How?
Patents	New inventions	Application and examination
Copyright	Original creative or artistic forms	Exists automatically
Trade marks	Distinctive identification of products or services	Use and/or registration
Registered designs	External appearance	Registration*
Trade secrets	Valuable information not known to the public	Reasonable efforts to keep secret



Some IP found in a mobile phone

Trade marks:

- Made by "Nokia"
- Product "N95"
- Software "Symbian", "Java"

Patents:

- Data-processing methods
- Semiconductor circuits
- Chemical compounds
- ...

Copyrights:

- Software code
- Instruction manual
- Ringtone
- ...



© Nokia

Trade secrets:

?

Designs (some of them registered):

- Form of overall phone
- Arrangement of buttons in oval shape
- Three-dimensional wave form of buttons
- ...

From EPO, *Patent teaching kit*

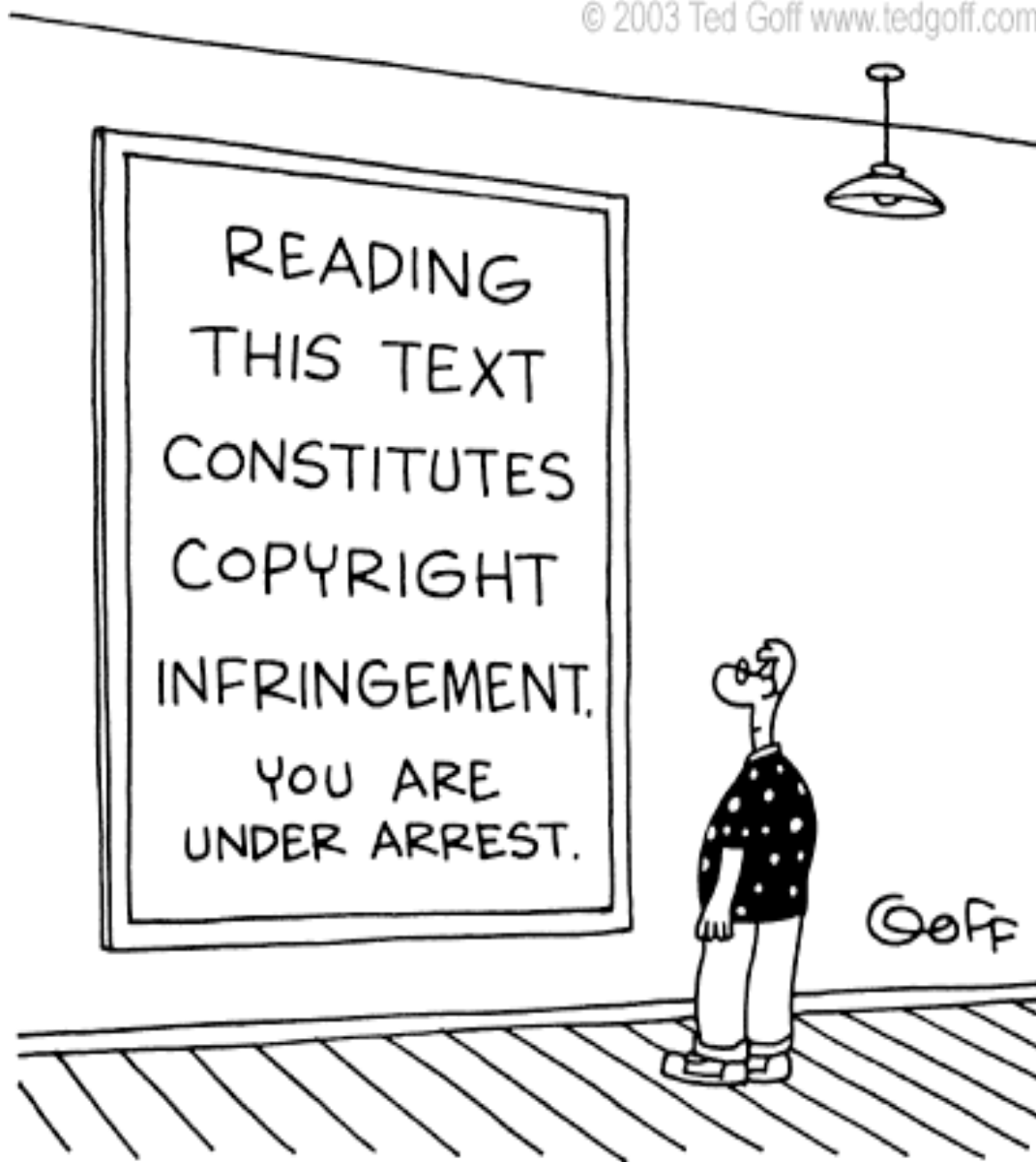
IPRs Rationale

- The Statute of Anne (1710): “An act for the encouragement of learning, by vesting the copies of printed books in the authors or purchasers of such copies, during the times therein mentioned”
- U.S. CONST. art. I, Sec. 8, cl. 8 “The Congress shall have Power . . . To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries”

Copyright

Psychological pressure





A recent law

- Unlike the property on material things (which dates back to the dawn of time, which means the earliest forms of human legal organization).
- Copyright is a recent law
- Before the printing technology:
 - Classic world: Greece and Rome
 - Medieval Age: authors (and scribe), painters, sculptors, architects, musicians and theater

A world without copyright...

- Hypothesis to justify the absence of copyright:
 - Economic incentives (patronage) and uniqueness of representation
 - Non economic incentives
 - Not immorality of plagiarism
 - Creativity and plagiarism: an ambiguous relationship (i.e. Shakespeare and following slides)
 - No possibility for a market for piracy (the cost of the original is equal to the cost of the copy (you must pay the scribe))

Which did come first: the egg
(protection) or the chicken (its
infringement)?

*“Only when media technology and market
conditions made piracy profitable could
copyright arise” (P.E. Geller)*



Technology and market

- Before the invention of movable type printing, the original costs the same as the copy (the cost is the payment of the slave, the scribe).
- With movable types, the original (matrix) is very expensive, the copy is cheap (the marginal cost of producing the copies is low).
- The second printer copies the matrix (supporting costs) and then he must support only the marginal costs of producing copies.
- With a new market (the book) and a new business model (selling large-scale copies of the originals with a cover price) → comes the need for new rules

Information as a “public good”

- Information features:
 - Immateriality
 - Inexhaustible
 - incremental and cumulative nature (“on the shoulders of giants”)
- Information → “Public Good”:
 - Not rival
 - Not excludable
- A market of public goods → Market Failure

Remedies to the market failure

- State remedies for market failure:
 - Direct intervention
 - Awards and grants
 - Monopoly/Property rights (copyright and patents)
 - To create artificially (ie, by the force of law) the excludibility that is missing to information in the state of nature
 - An exclusive right that allows to apply an higher price with respect to the marginal cost in order to incentive the creation and distribution
 - A poised balance → The exclusive right is limited in time and extent

The Origins of Copyright

- Relationship between the Gutenberg invention of the press and the legal protection of literary works:
 - Press invented in the 15th century: first Bible published in 1455
 - Privilege of the Republic of Venice (1469)

The Statute of Anne - 1710

- Declamation: "The encouragement of learning" Operational rules:
 - "The sole liberty of printing and reprinting books ..." (Proprietor), but uncertainty in the nature of law
 - Time limits: 14 years from publication plus another 14 if the author is still alive (for works already published: 21 years from 1710)
 - Registration
 - Penalties

Copyright Law

- Copyright law grants authors an exclusive rights in their intellectual works.
- The exclusive right embraces
 - Moral rights
 - Economic Rights
- Limits of the exclusive right:
 - Extension (originality; expression/idea dichotomy)
 - Duration

Economic rights

Main economic rights:

- Reproduction (right to make copies)
- Distribution (right to distribute copies)
- Communication (right to communicate)
- Derivative works (right to make derivative works)

Moral rights

Main moral rights:

- Right of attribution (diritto di paternità)
- Right to the integrity of the work

Copyright Law limits: extension

- Extension:
 - Originality
 - Expression/Idea Dichotomy
 - First Sale Doctrine (Once a work is sold or distributed on a specific territory with the consent of the right holder, the latter may not control or prevent the further distribution).

Copyright Law limits: duration

- Statute of Anne – 1710: 14 years (+ 14)
- U.S. Copyright Act 1790: 14 years
- Berne Convention art. 7: author's life + 50 years
- Directive 2006/116/EC: author's life + 70 anni
 - Art. 25, l. 22 aprile 1941, n. 633 (Italian) “Copyright Law”
- Sonny Bono Copyright Extension Act of 1998: author's life + 70 years

Digital Revolution

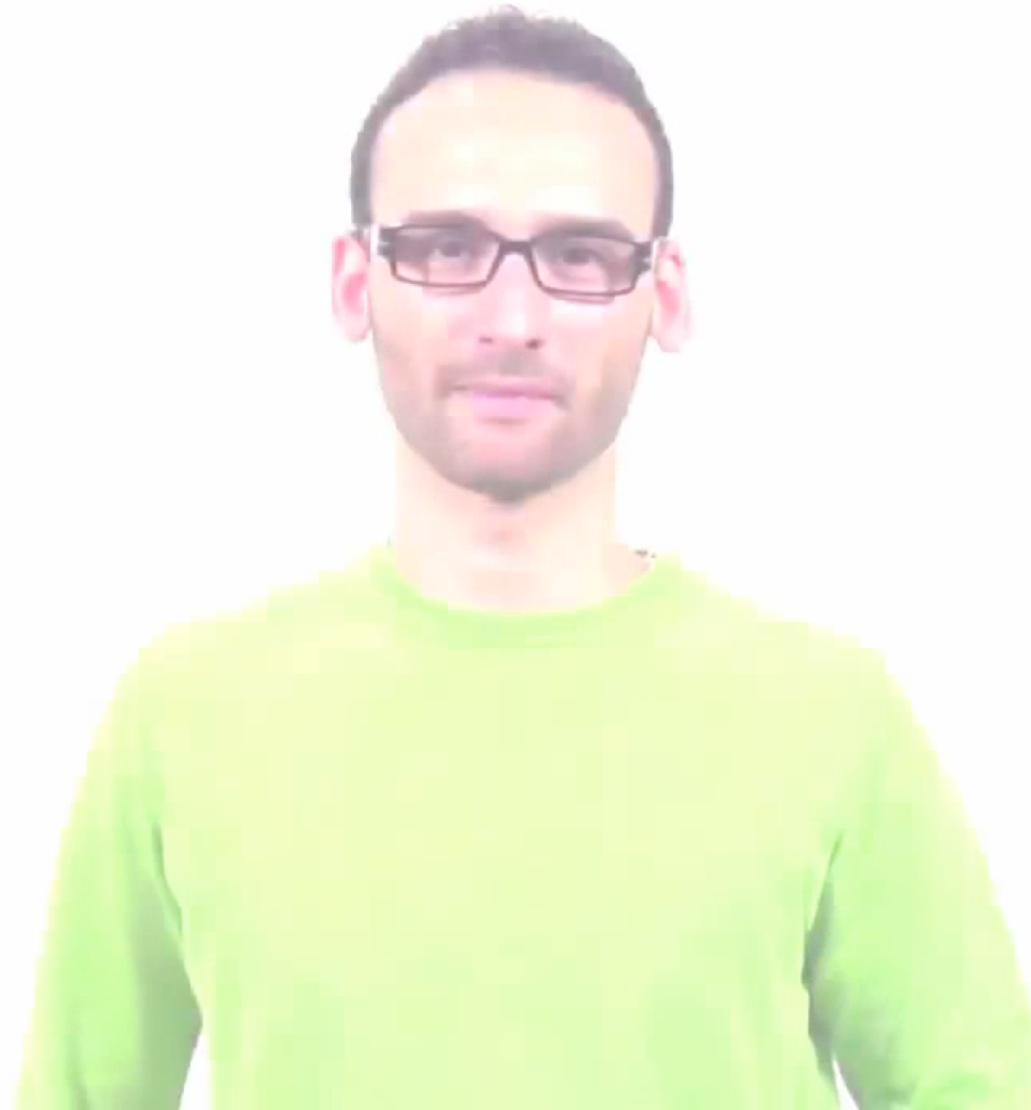
- Producing and distribution of tools aimed at easily reproducing copyrighted works:
 - photocopiers,
 - tape recorders,
 - VCRs
- First attempt to contrast the phenomenon by the right holders
 - → suing the producers of these “new” (devil) technologies!

Digital Revolution

- Challenges:
 - Easy production of copies
 - The copy = the original
 - Easiness distribution of copies.
- ...and traditional copyright laws are still there to recognize exclusive rights to creators of original works.

Copyright in the digital age

- Redefinition of the main features of intellectual works:
 - Concept of work
 - Concept of author
 - Concept of creativity



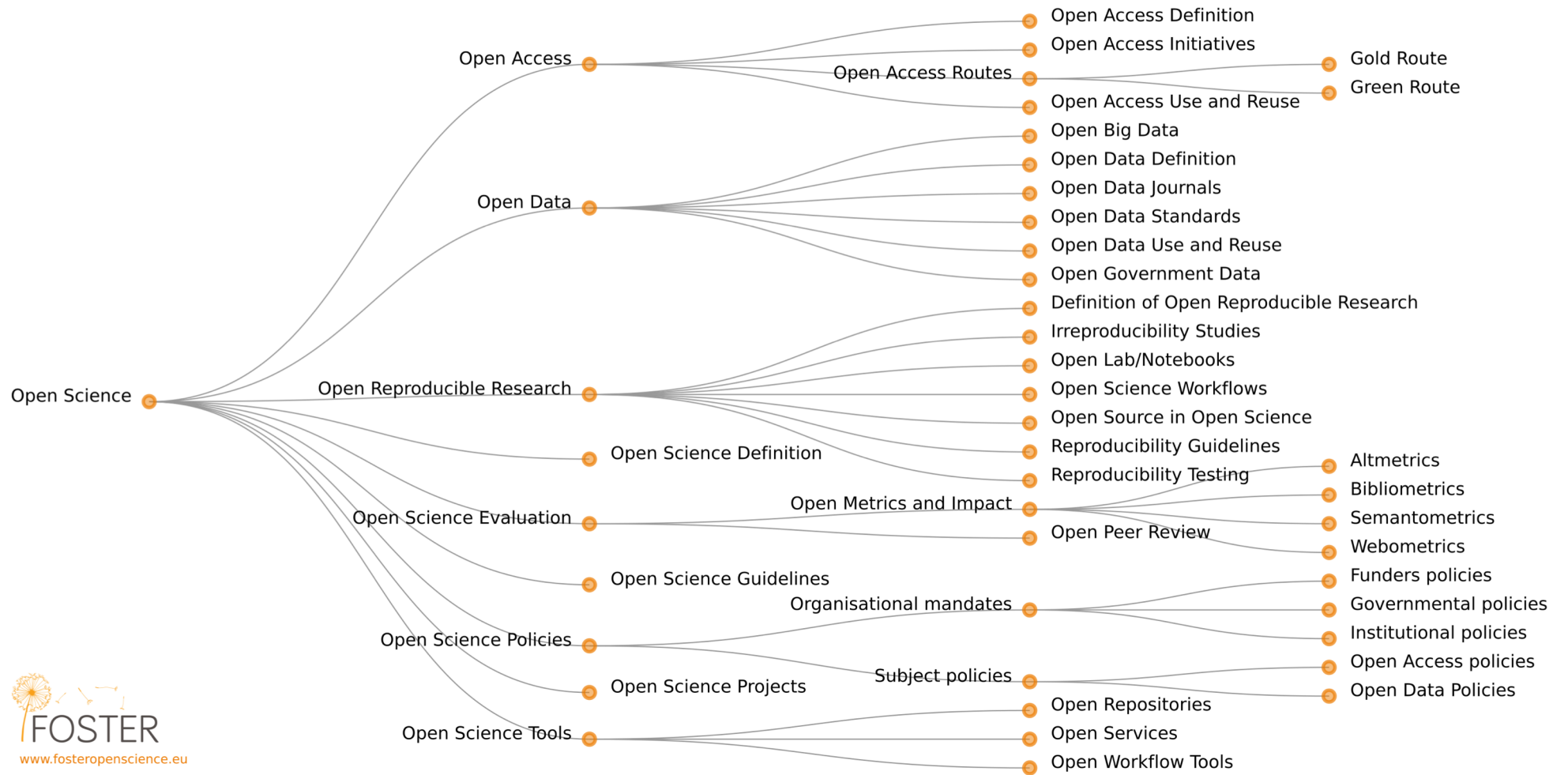
2

Open Access to Scientific Publications

Open Science

- Free and Open Software
- Open Access to Scientific Publications
- Open Research Data
- Open Educational Resources

Open Science Taxonomy



Peter Suber 2012

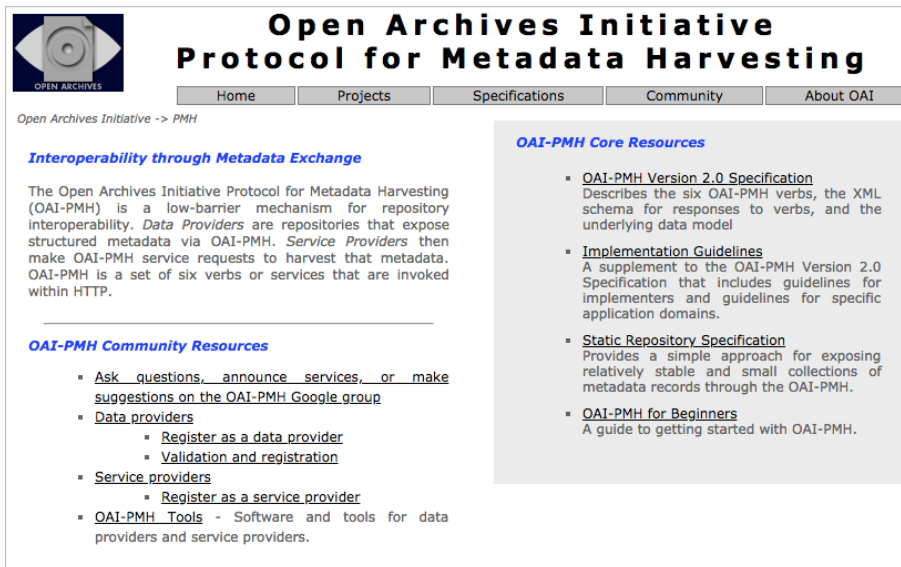
“Open access (OA) literature is

- digital,
- online,
- free of charge, and
- free of most copyright and licensing restrictions”

Digital, online

<https://www.openarchives.org/pmh/>

- Interoperability through Metadata Exchange
-
- The Open Archives Initiative Protocol for Metadata Harvesting (OAI-PMH) is a low-barrier mechanism for repository interoperability. Data Providers are repositories that expose structured metadata via OAI-PMH. Service Providers then make OAI-PMH service requests to harvest that metadata. OAI-PMH is a set of six verbs or services that are invoked within HTTP.



Open Archives Initiative Protocol for Metadata Harvesting

Home Projects Specifications Community About OAI

Open Archives Initiative -> PMH

Interoperability through Metadata Exchange

The Open Archives Initiative Protocol for Metadata Harvesting (OAI-PMH) is a low-barrier mechanism for repository interoperability. *Data Providers* are repositories that expose structured metadata via OAI-PMH. *Service Providers* then make OAI-PMH service requests to harvest that metadata. OAI-PMH is a set of six verbs or services that are invoked within HTTP.

OAI-PMH Community Resources

- [Ask questions, announce services, or make suggestions on the OAI-PMH Google group](#)
- [Data providers](#)
 - [Register as a data provider](#)
 - [Validation and registration](#)
- [Service providers](#)
 - [Register as a service provider](#)
- [OAI-PMH Tools](#) - Software and tools for data providers and service providers.

OAI-PMH Core Resources

- [OAI-PMH Version 2.0 Specification](#)
Describes the six OAI-PMH verbs, the XML schema for responses to verbs, and the underlying data model
- [Implementation Guidelines](#)
A supplement to the OAI-PMH Version 2.0 Specification that includes guidelines for implementers and guidelines for specific application domains.
- [Static Repository Specification](#)
Provides a simple approach for exposing relatively stable and small collections of metadata records through the OAI-PMH.
- [OAI-PMH for Beginners](#)
A guide to getting started with OAI-PMH.

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Double identity

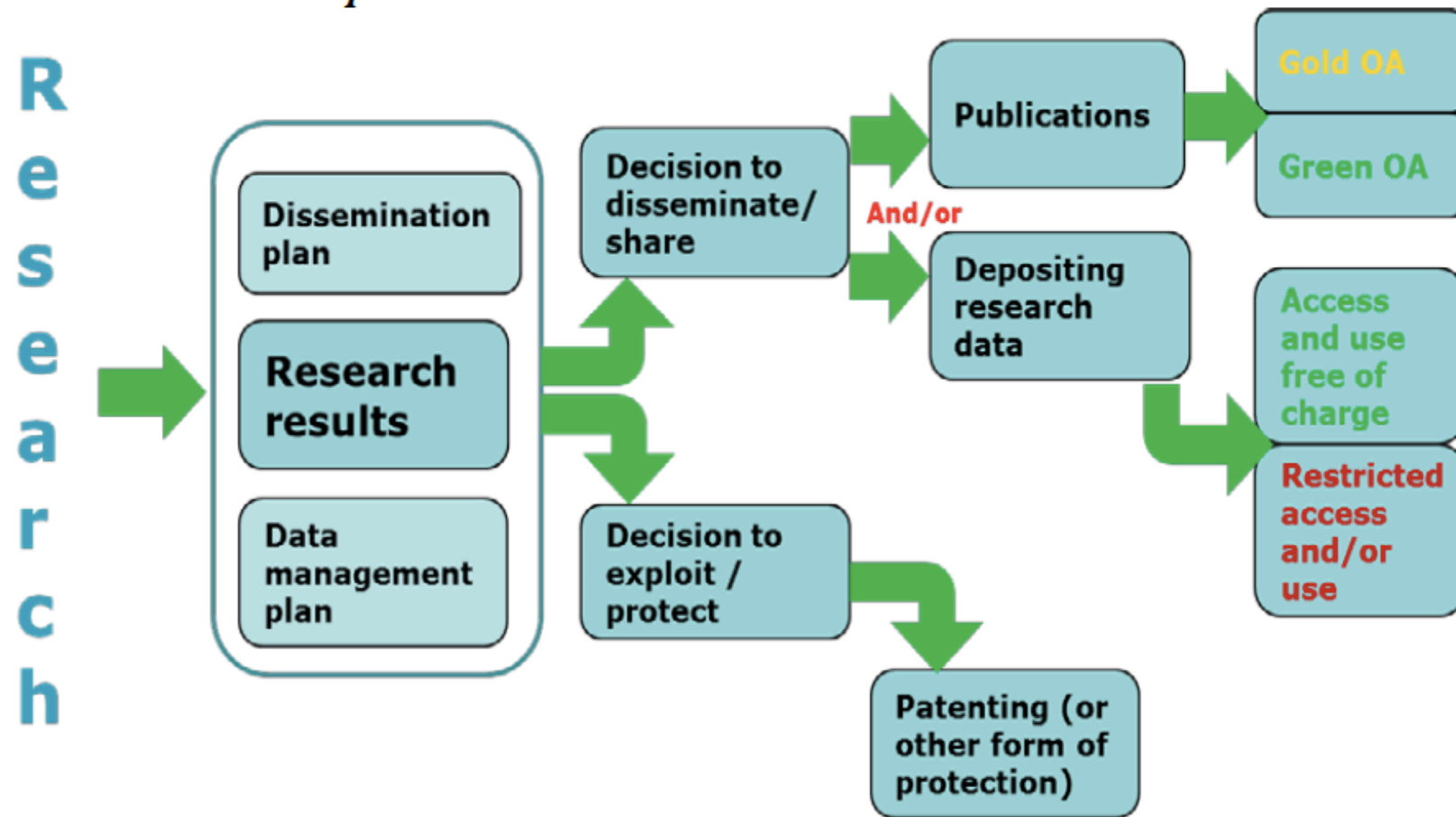
- Ethics
- Incentives

Double identity

- Bottom up
- Top down

Top down: e.g. UE H2020

Graph: Open access to scientific publication and research data in the wider context of dissemination and exploitation



H2020

- Article 29.2 of the Model Grant Agreement sets out detailed legal requirements on open access to scientific publications: under Horizon 2020, **each beneficiary must ensure open access to all peer-reviewed scientific publications** relating to its results.

Unitn

- Mandatory deposit in IRIS (closed access)
- Clearing of copyright → eventually publishing in Open Access

http://www.sherpa.ac.uk/romeo/index.php



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Additions and Updates

[RSS1 Feed](#)

- [Schools Health Education Unit](#) - Schools Health Education Unit - 20-Mar-2018
- [International Institute of Social History](#) - International Institute of Social History - 19-Mar-2018
- [Erdkunde](#) - Erdkunde - 09-Mar-2018

Other SHERPA Services

- [SHERPA/FACT](#) - Funders & Authors Compliance Tool
- [SHERPA/JULIET](#) - Research funders' open access policies

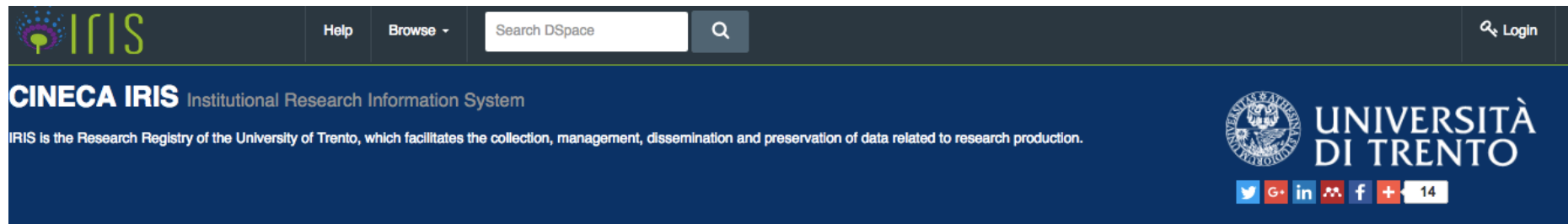


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Open Access Roads

Green road: e.g. IRIS Unitn



IRIS Univ. Trento / Homepage

English -

Welcome in IRIS

IRIS is the new current research information system at Unitn. It replaces U-GOV Catalogue and the institutional Open Access archive Unitn-eprints Research.

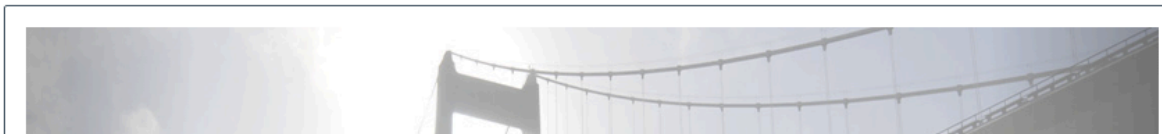
All U-GOV records were migrated to IRIS; Unitn-eprints Research records will be migrated in a second phase. U-GOV records in "temporary status" were migrated to IRIS but will become visible in its public interface only after their authors will have saved them in "permanent status" and IRIS Staff will have validated them.

IRIS migration and configuration were complex: we trust in your patience in case of flaws being solved as soon as possible, and we are thankful for your feedback about any critical experience with IRIS.

Short guidelines, manuals and video tutorials are available [here](#).

A most warm thank you to: Direzione Sistemi Informativi, Servizi e Tecnologie Informatiche; Ufficio Legale; Divisione Comunicazione ed Eventi; Cineca .

Recent publications



Search

Collection

03 Contributo in periodico (Part ...

38468

02 Contributo in volume (Part of ...

18729

Green Road: e.g. Zenodo

The screenshot shows the Zenodo interface. At the top is a blue navigation bar with the Zenodo logo, a search bar, and links for 'Upload' and 'Communities'. A user profile for 'roberto.caso@unitn.it' is visible in the top right. Below the navigation bar, the page title 'Poisonous Science: the Dark Side of Academic Copyright in the Digital Age' is displayed, along with the author 'Caso, Roberto'. The date 'June 6, 2017' is shown in the top left. Action buttons for 'Presentation', 'Open Access', 'Edit', and 'New version' are present. The main text discusses academic copyright, mentioning Robert Merton's theory and the CUDOS project. A metadata box on the right includes the OpenAIRE logo, publication date, DOI (10.5281/zenodo.803137), keywords (Copyright, Academic Copyright, Norms of Science, Robert K. Merton, CUDOS, Open Science, Open Access, Commodification), and the Creative Commons Attribution 4.0 license.

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June 6, 2017 Presentation Open Access Edit New version

Poisonous Science: the Dark Side of Academic Copyright in the Digital Age

Caso, Roberto

Copyright on academic and scientific publications (papers, articles, essays, books etc.) is the result of the interaction between formal rules (copyright law), social norms (norms of science) and technology (printing press, digital technologies).

Prior to the digital age, academic copyright has had two main functions.

a) Priority. The acknowledgment of a paternity (or attribution) right on the scientific publication has facilitated the certification of priority of the scientific discovery described in the text.

b) Dissemination. The protection of economic rights (reproduction, distribution etc.) has enabled the alliance between scientific authors and publishers finalized to distribute scientific publications to the public. Usually, scientific authors transfer their economic rights to the publisher because the latter has the economic and technological power to disseminate scientific publications. Nevertheless, scientific authors are mostly interested in reputation and not in the economic return derived from the commercialization of copyright.

According to Robert Merton's theory, the norms of science are Communism, Universalism, Disinterestedness, and Organized Skepticism (CUDOS).

Scientists compete for priority but they put their ideas and information in the public domain. The ultimate scope is to share ideas and information because the progress of science depends on "communism" and "organized skepticism". In other terms, scientific publications are part of the public and critical dialogue. In this perspective, formal law and social norms,

Indexed in OpenAIRE

Publication date: June 6, 2017

DOI: DOI 10.5281/zenodo.803137

Keyword(s): Copyright Academic Copyright Norms of Science Robert K. Merton CUDOS Open Science Open Access Commodification

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Green road: e.g. arXiv

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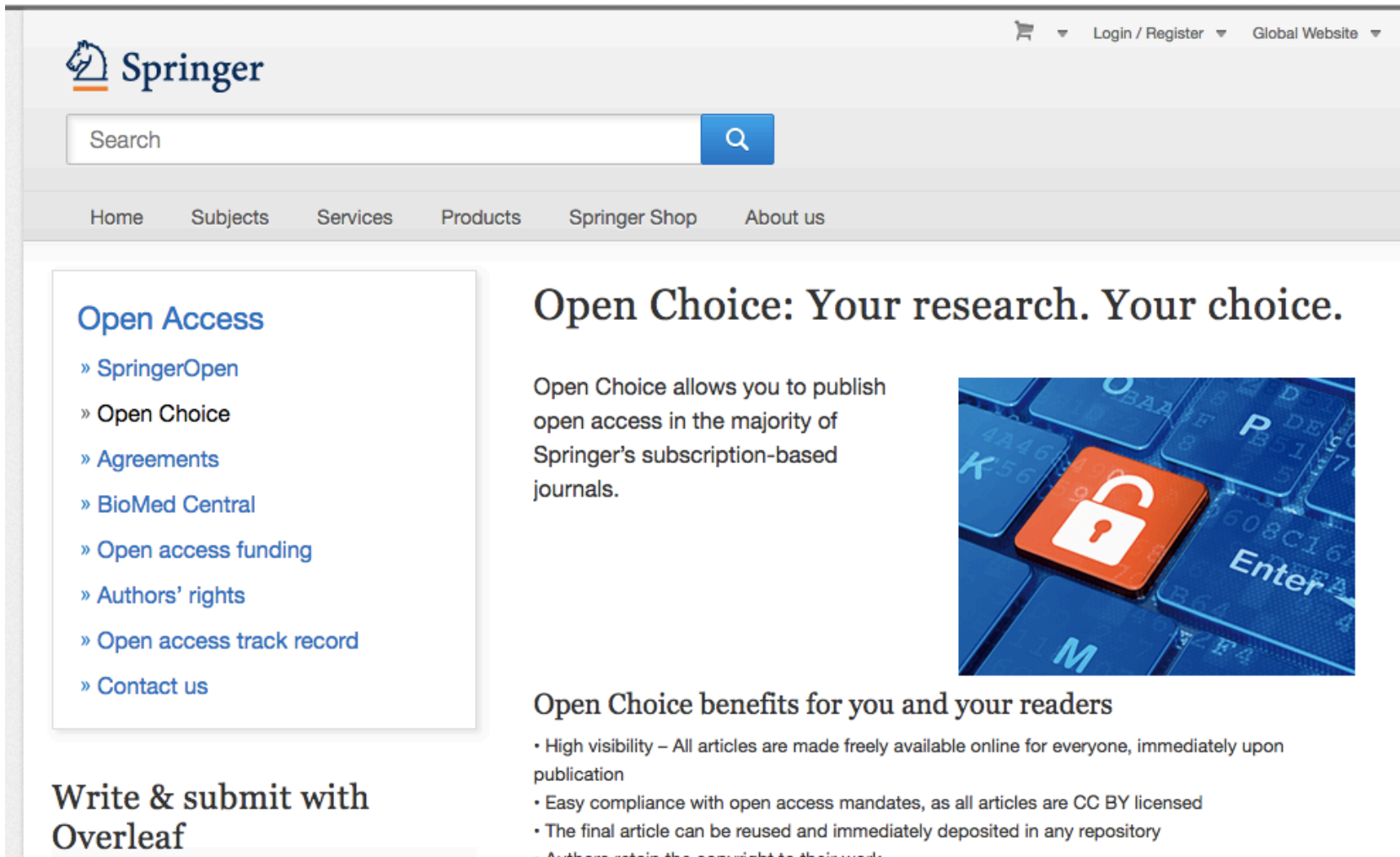
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Red road (double dipping)



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Academic copyright

Scientific authorship: freedom and responsibility

- Freedom (freedom of speech, academic freedom → autonomy)
- Responsibility (e.g., in terms of scientific misconduct, fraud, plagiarism etc.)

Balancing copyright

(Public) Access

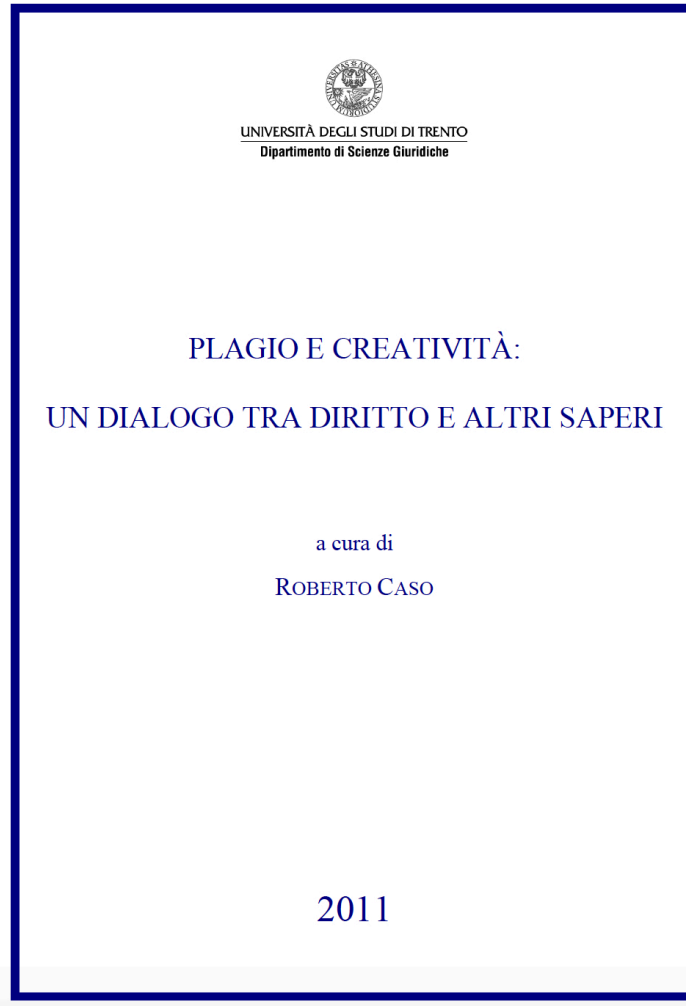
Vs.

(Exclusive) Control

Formal and social norms

- Copyright law
- Social norms

Scientific publications



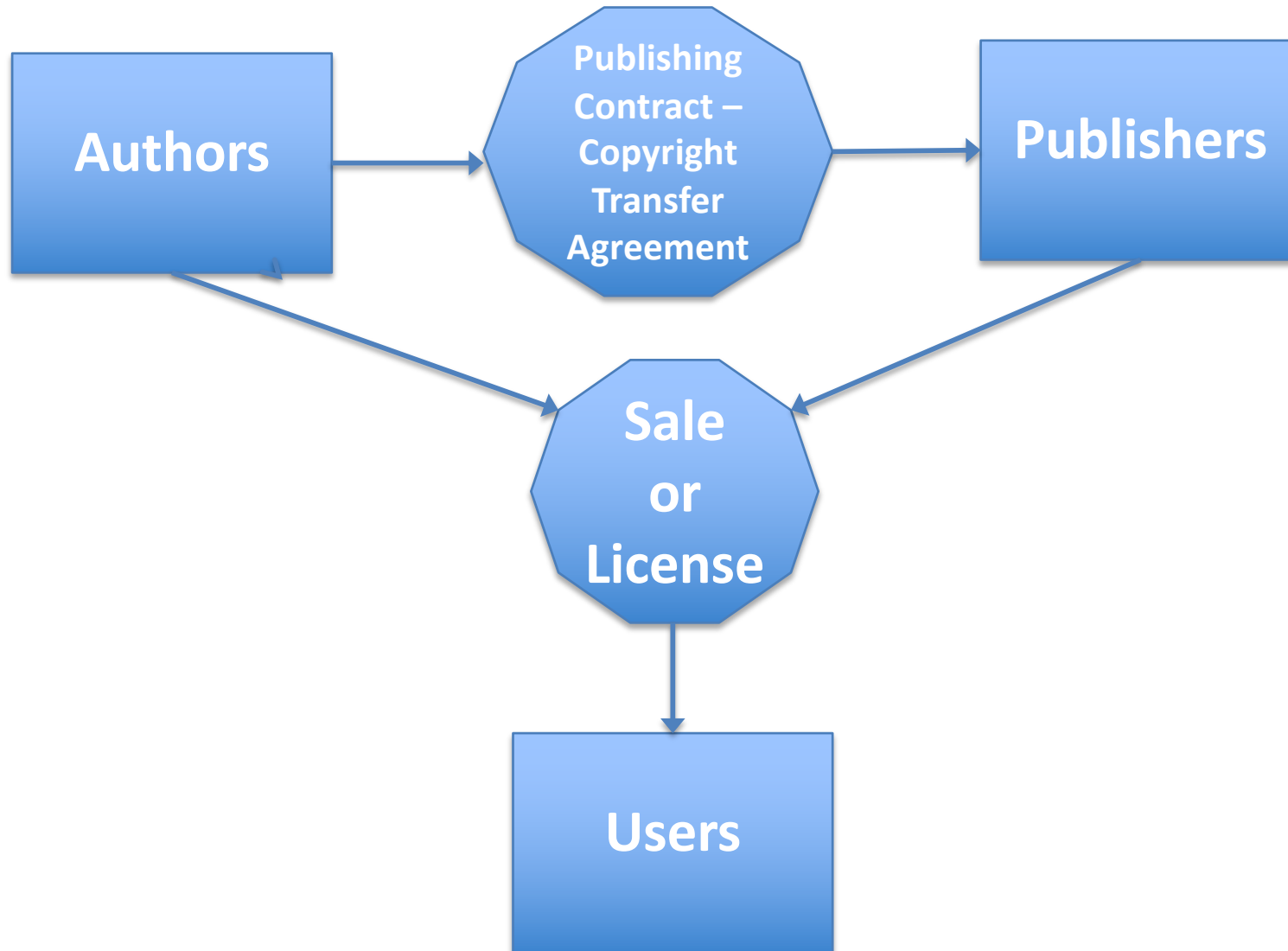
Scientific Publications

- Who is the copyright holder?
 - Default rule → the Author, but
 - by contract, the author can transfer the right to the Publisher
- How do you acquire copyright protection?
 - Creation of the work
- How do you transfer copyright?
 - Licenses/Assignments
 - Publishing contracts

Publishing Agreement or Copyright Transfer Agreement

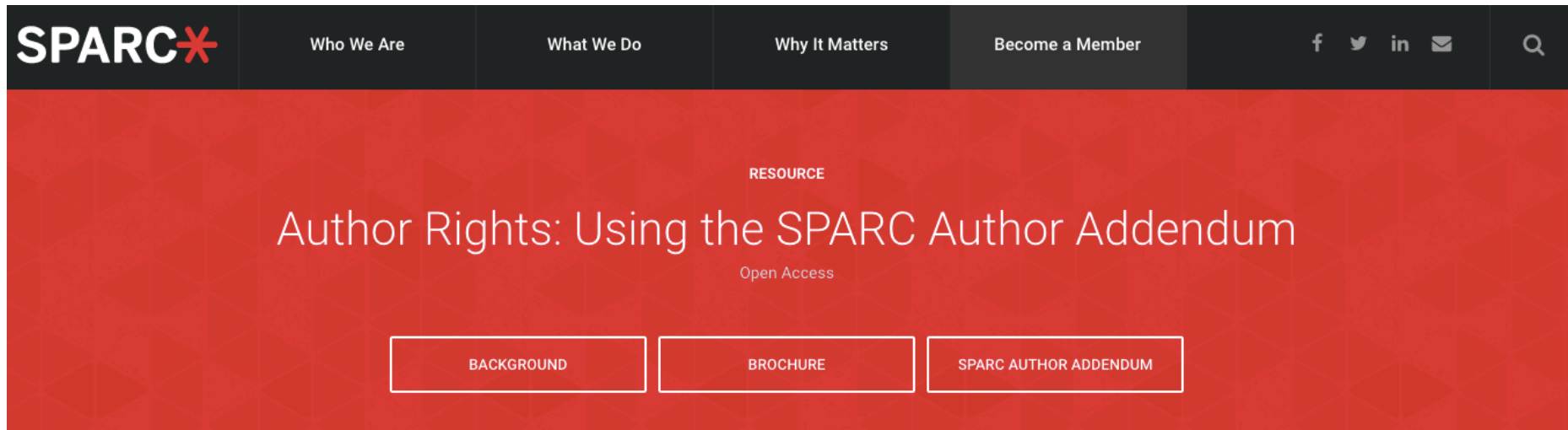
- Usually the scientific author transfers her economic copyright to the publisher without negotiation
- He/she has subject to the publisher decisional power

Contracts



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Exploitation and contractual tools

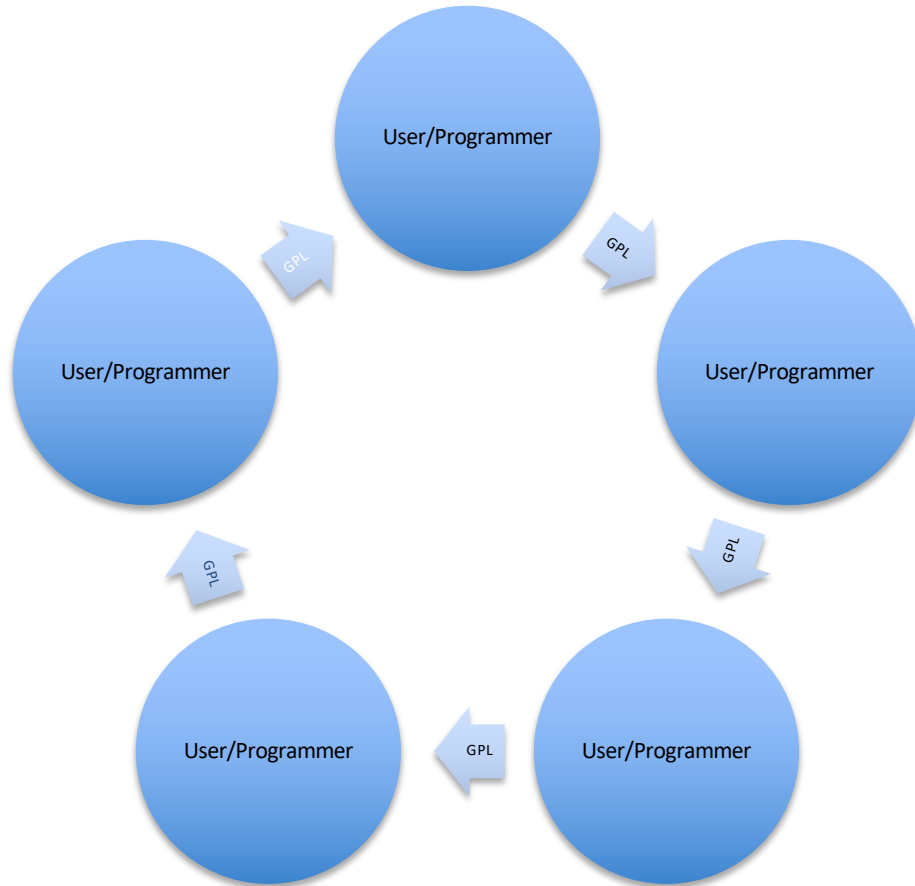
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 - → full and final transfer

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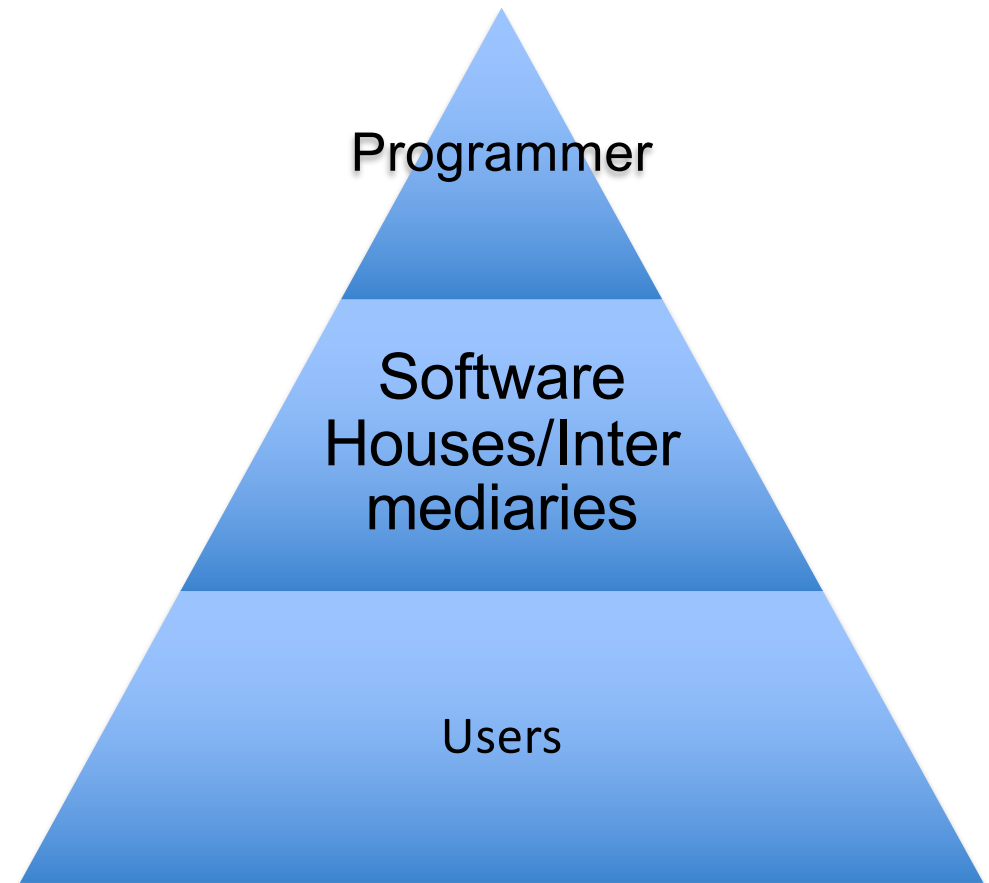
Business Models and Licenses

- Hierarchical Model
 - Based on traditional copyright
 - Proprietary License (i.e. EULA)
- Not Hierarchical Model
 - Peers play hybrid roles (i.e. software)
 - Open Licenses

Not Hierarchical Model: open logic



Hierarchical Model: fixed roles



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GNU GPL logics



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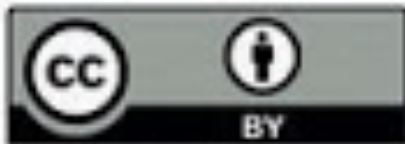
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Trova risultati	che contengano tutte le seguenti parole	<input type="text"/>	10 risultati	Cerca con Google
	che contengano la seguente frase	<input type="text"/>		
	che contengano una qualunque delle seguenti parole	<input type="text"/>		
	che non contengano le seguenti parole	<input type="text"/>		
Lingua	Visualizza solo le pagine scritte in	tutte le lingue		
Paese	Cerca pagine situate in	tutti i Paesi		
Formato file	<input type="button" value="Visualizza"/> i risultati in	qualsiasi formato		
Data	Restituisci pagine web visitate	in qualsiasi data		
Cerca in	Visualizza i risultati quando i termini selezionati appaiono	in una qualsiasi parte nella pagina		
Dominio	<input type="button" value="Visualizza"/> i risultati contenuti nel seguente sito o dominio	<input type="text"/>		
Diritti di utilizzo	Trova risultati che	Esempi: .org, google.com Ulteriori Informazioni		
SafeSearch	<input checked="" type="radio"/> Nessun filtro <input type="radio"/> Filtra con SafeSearch	possono essere utilizzati o condivisi gratuitamente		

YAHOO! SEARCH

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<input type="text" value="Paolo Guarda"/>	<input type="button" value="Search CC"/>	<input type="button" value="Search the Web"/>
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