Can I copyright my data?

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Agenda

- Can I copyright my data?
- What does copyright protect?
- How do I get credit for and protect my data?
Can Data be Copyrighted?

- Short Answer:
  - NO.
- Long(er) Answer:
  - Other rights may be involved
  - Other forms of protection
Intellectual Property Rights

Areas of protection:

- **Patent**: protects new and useful discoveries or improvements
- **Trademark**: protects words, names, symbols, or devices used in commerce to indicate the source of a good or service
- **Trade Secrets**: protects business formulas, processes, and practices not readily known or ascertainable
- **Copyright**: protects original works of authorship fixed in a tangible medium of expression
Copyright Law

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Origin of U.S. Copyright

“The Congress shall have the 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.”

– U.S. Constitution. Article 1, Section 8
Purpose of U.S. Copyright

• To find the right balance between incentivizing creators and maintaining a robust public domain.

• To give Congress the power to grant authors and inventors exclusive rights - for a limited time – that are not intrinsic or natural.
What Can Be Protected?

Original works of authorship fixed in a tangible medium of expression.

https://secure.flickr.com/photos/murk/4486570564/ Photo by murkredi Attribution-NonCommercial-ShareAlike 2.0 Generic (CC BY-NC-SA 2.0)
What CAN be protected:

- Section 102 of the 1976 Copyright law lists:
  - literary works
  - musical works, including any accompanying words
  - dramatic works, including any accompanying music
  - pantomimes and choreography
  - pictorial, graphic and sculptural works
  - motion pictures and other audiovisual works
  - sound recordings
  - architectural works
What **CANNOT** be protected:

- works already in the Public Domain
- those works not fixed in a tangible medium
- ideas
- facts
- works of the U.S. Government produced by government employees
The Author’s Bundle of Rights:

- Exclusive rights outlined in Section 106 of the U.S. Copyright law:
  - Right to reproduce
  - Right to prepare derivative works
  - Right to distribute
  - Right to display publicly
  - Right to perform publicly
Author’s Rights

- **Copyright is automatic**
- Materials receive copyright protection *instantly*
  - The creator or author must do something in order **not** to have copyright protection
- Works are automatically covered by the Copyright Law and you own that copyright unless the work is created as a "work for hire"
- All **student works** are covered by the Copyright Law. Students own their copyright.
- Content available in **digital form** on the Internet (including e-mail) is considered “tangible” and covered by copyright.
What’s Your University Policy?

- May depend on your status
  - Work for hire?

- Most universities do not claim copyright in traditional scholarly work (*may be restricted to faculty*)
Manage your copyright and communicate your choices.

- Be proactive! Make it clear how you want your work to be used & how you want to be credited:
  - Copyright notice: © 2014 The Ohio State University
  - “All rights reserved”
  - Creative Commons license
  - Other license or terms of use (e.g. specifying permitted uses or requested citation format)
  - Understand retained rights before posting on social networking sites
  - Understand funder mandates
  - Discuss with publisher(s)
Changing the question

Can I copyright my data?

How do I get credit for and protect my data?
Research data

“Units of information observed, collected, or created in the course of research”

Example

A book is a copyrightable creative work.

A collection of books, such as HathiTrust, used to determine the increase in vocabulary complexity over time is research data.
The Format Trap

Some formats are commonly copyrighted:

Most creative works: Literary works, music, drama, pictures, graphics, video, sound recordings, architectural works, etc.

Depending on the context, the material may be research data.
## Versions of data

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Research Data

- Depends on context
- Re-usable dataset may not be all of one format
Changing the question

Can I copyright my data?

How do I get credit for and protect my data?
Data citations

Author, publication date, title, edition/version, feature name or URI, resource type, publisher, unique numeric fingerprint (UNF), identifier, location (URL)

DOI

Ball, Alex & Duke, Monica. How to Cite Datasets and Link to Publications. Retrieved from http://www.dcc.ac.uk/resources/how-guides/cite-datasets#x1-4000
Building a Culture of Data Citation

CREATE

1. Australian researcher creates a research dataset and a publication related to the dataset.
2. Dataset is stored in a publicly accessible repository.
3. Researcher uses ANDS services to mint a Digital Object Identifier (DOI) for the dataset.

USE

4. DOI is used in data citation.
5. Research community uses the DOI to access the dataset and carry out related research.
6. Citation metrics services (e.g., Scopus, Web of Knowledge) accumulate citation references to the dataset and publication.
7. Researcher future funding and promotion influenced by dataset citation metrics.

MEASURE

6. Funding and research groups review publication and dataset citation metrics.
5. Citation metrics services (e.g., Scopus, Web of Knowledge) accumulate citation references to the dataset and publication.

REWARD

7. Researcher future funding and promotion influenced by dataset citation metrics.

ands.org.au

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DataCite

- Provides DOIs, workflows and standards
- 8,500 Euros per year
We’re still figuring it out…

“Data Users who make use of Licensed Data must cite the relevant primary original publications...Authors utilizing genotyping data are required to list the following individuals as co-Authors on any publications”

Changing the question

Can I copyright my data?

How do I get credit for and protect my data?
Protecting data = restricting it

Research Data Policy - data is university owned

OSU’s policy “the PI has the right and responsibility to ensure that research is reported to the scientific and academic community, as well as to select the vehicle for publication or presentation of research data and results.”

Protection may also exist in...

Does sharing/publishing violate:

- FERPA (Family Educational Rights and Privacy Act)
- HIPAA (Health Insurance Portability and Accountability Act)
- Export Control Laws
- IRB (Institutional Review Board)
- PII (personally identifiable information)
- Patents or any other contractual agreement
Re-use statements

Could be a copyright statement, but maybe it’s a license, data transfer agreement, data use agreement, etc.

It’s complex, ask for help!
Data Transfer/Use Agreement

Data Transfer Agreement (DTA) or Data Use Agreement (DUA)

- Researchers that are moving on…
- Repositories may have a standard DTA/DUA – example: ICPSR

http://www.icpsr.umich.edu/icpsrweb/content/ICPSR/access/restricted/
Example

- The acquisitions department is notified of a license violation
- The researcher is automatically harvesting the metadata from a vendor database
- The vendor is willing to share the metadata for research purposes, but only if the derivative dataset is exclusively given back to them
Changing the question

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Answer: Always attach a citation and, if needed, a re-use statement.
Summary

- Common facts and ideas are not copyrightable
- The creative expression of facts or ideas is copyrightable
- Review your University’s policies
- The word ‘data’ has changed over the years – establish a common definition
- Always attach citation information
- Even if copyright doesn’t apply, a re-use statement can be attached
- For research data at a university, the university typically owns the intellectual property of the data, while the researcher may be given the responsibility of managing, sharing and publishing it
Questions?
Thank you so much!

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