

An Introduction to the Creative Commons

An ACRL e-Learning Webinar

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Note: I am speaking from knowledge and experience in working with CC licensing, not on behalf of the CC. I will do my best to answer your copyright questions but can't provide legal advice.

In This Presentation

- A bit of history
- What's in a license?
- Types of licenses
- Iterations of licenses
- Using CC licenses
- Finding CC works

A Bit of History

From the Framers

“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.”

-Article I, Section 8, Clause 8 (emphasis added)

How it Works

- Meet the criteria for securing copyright
- Receive certain rights under the law, e.g. making copies, distributing them, making derivatives, making performances and displays of the work
- Duration of copyright:
 - 1790 = 14+14
 - 1831 = 28+14
 - 1909 = 28+28
 - 1976 = life + 50

Recommended Resource: USCO Copyright Basics Circular:
<https://www.copyright.gov/circs/circ01.pdf>

Public Domain

Technically, a work that is not protected by copyright

- Work that contains no copyrightable content
- Work created by the US Federal Government
- Term of copyright has expired

Recommended Resource: USCO's Works Not Protected by Copyright Circular:
<https://www.copyright.gov/circs/circ33.pdf>

Sonny Bono CETA (1998)

- Sonny Bono Copyright Term Extension Act (CTEA)
- Added 20 years to the term of copyright protection (e.g. life +50 became life +70)
- Eric Eldred, represented by Lawrence Lessig brought challenged the constitutionality of the CTEA (Eldred v. Ashcroft) on three points:
 - Violation of the copyright clause
 - First amendment considerations
 - Violation of the public trust doctrine

Read: Eldred v. Ashcroft: <https://www.law.cornell.edu/supct/html/01-618.ZS.html>

A Bit Frustrated....

- Lessig and colleagues explored the idea of how to help make more creative works readily available throughout the world
- With support from the Center for the Public Domain, the Creative Commons was founded in 2001
- Published their first set of Creative Commons licenses (version 1.0) in 2002
 - CC-BY
 - CC-BY-SA
 - CC-BY-NC
 - CC-BY-NC-SA
 - CC-BY-ND
 - CC-BY-NC-ND

What's in a License?

Front End

CC-BY



CC-BY-SA



CC-BY-NC



CC-BY-NC-SA



CC-BY-ND



CC-BY-NC-ND



Back End, Layer 1– Commons Deeds

- Summary of the “legal code”
- Plain language text of what the user can do with the CC licensed work
- Plain language text of what the user must do in order to be in compliance with the license
- Notices – a few things for the user to be aware of
- Pros: Easy to read and understand
- Cons: Easy not read, or too much is read into it!

Attribution 4.0 International (CC BY 4.0)

This is a human-readable summary of (and not a substitute for) the [license](#). [Disclaimer](#).

You are free to:

Share — copy and redistribute the material in any medium or format

Adapt — remix, transform, and build upon the material for any purpose, even commercially.

The licensor cannot revoke these freedoms as long as you follow the license terms.



Back End, Layer 2 – Legal Code

The terms and conditions of this Creative Commons Attribution 4.0 International Public License ("Public License"). To the extent this Public License may be interpreted as a contract, You are granted the Licensed Rights in consideration of Your acceptance of these terms and conditions, and the Licensor grants You such rights in consideration of benefits the Licensor receives from making the Licensed Material available under these terms and conditions.

More Legal Code

1. Definitions
2. Scope
3. License Conditions
4. Sui Generis Database Rights
5. Disclaimer of Warranties and Limitation of Liability
6. Term and Termination
7. Other Terms and Conditions
8. Interpretation

Pros: There are a lot of answers to be found here!

Cons: If you are comfortable navigating through the language, you can learn a lot

Back End, Layer 3 – Machine Readable Code

Metadata that helps identify your works as a CC work

Help others attribute you!

This part is optional, but filling it out will add machine-readable metadata to the suggested HTML!

Title of work	<input type="text"/>	?
Attribute work to name	<input type="text"/>	?
Attribute work to URL	<input type="text"/>	?
Source work URL	<input type="text"/>	?
More permissions URL	<input type="text"/>	?
Format of work	<input type="text" value="Other / Multiple formats"/>	?
License mark	<input type="text" value="HTML+RDFa"/>	?

The Licenses

CC-BY



The user can:

- **Share** — copy and redistribute the material in any medium or format
- **Adapt** — remix, transform, and build upon the material for any purpose, even **commercially**.
- The licensor cannot revoke these freedoms as long as you follow the license terms.

The user must:

- **Attribution** — You must give appropriate credit, provide a link to the license, and indicate if changes were made. You may do so in any reasonable manner, but not in any way that suggests the licensor endorses you or your use.
- **No additional restrictions** — You may not apply legal terms or technological measures that legally restrict others from doing anything the license permits.

Sharing

Share means to provide material to the public by any means or process . . . such as reproduction, public display, public performance, distribution, dissemination, communication, or importation, and to make material available to the public including in ways that members of the public may access the material from a place and at a time individually chosen by them.

Adapt

Generally, a modification rises to the level of an adaptation under copyright law when the modified work is based on the prior work but manifests sufficient new creativity to be copyrightable, such as a translation of a novel from one language to another, or the creation of a screenplay based on a novel.

Is it an Adaptation?

Under the CC licenses, adaptations are not...

- Format shifting
- Fixing minor errors, e.g. a misspelled word or punctuation
- Putting works together in a collection, e.g. a collection of essays or poems
- Including a photo in connection with text

Commercial Uses

- Uses that are primarily intended for or directed toward commercial advantage or monetary compensation
- Whether a use is commercial will depend on the specifics of the situation and the intentions of the user.

Attribution

If You Share the Licensed Material (including in modified form), You must:

A. retain the following if it is supplied by the Licensor with the Licensed Material:

- i. identification of the creator(s) of the Licensed Material and any others designated to receive attribution, in any reasonable manner requested by the Licensor (including by pseudonym if designated);
- ii. a copyright notice;
- iii. a notice that refers to this Public License;
- iv. a notice that refers to the disclaimer of warranties;
- v. a URI or hyperlink to the Licensed Material to the extent reasonably practicable;

B. indicate if You modified the Licensed Material and retain an indication of any previous modifications; and

C. indicate the Licensed Material is licensed under this Public License, and include the text of, or the URI or hyperlink to, this Public License.

- You may satisfy the conditions in Section [3\(a\)\(1\)](#) in any reasonable manner based on the medium, means, and context in which You Share the Licensed Material. For example, it may be reasonable to satisfy the conditions by providing a URI or hyperlink to a resource that includes the required information.
- If requested by the Licensor, You must remove any of the information required by Section [3\(a\)\(1\)\(A\)](#) to the extent reasonably practicable.

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Resource: CC’s Best Practices for Attribution: https://wiki.creativecommons.org/wiki/Best_practices_for_attribution

No Additional Restrictions

You may not offer or impose any additional or different terms or conditions on, or apply any Effective Technological Measures to, the Licensed Material if doing so restricts exercise of the Licensed Rights by any recipient of the Licensed Material.

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CC-BY



The user can:

- Share — copy and redistribute the material in any medium or format
- Adapt — remix, transform, and build upon the material for any purpose, even commercially.
- The licensor cannot revoke these freedoms as long as you follow the license terms.

The user must:

- Attribution — You must give appropriate credit, provide a link to the license, and indicate if changes were made. You may do so in any reasonable manner, but not in any way that suggests the licensor endorses you or your use.
- No additional restrictions — You may not apply legal terms or technological measures that legally restrict others from doing anything the license permits.

CC-BY-SA



The user can:

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- Adapt — remix, transform, and build upon the material for any purpose, even commercially.
- The licensor cannot revoke these freedoms as long as you follow the license terms.

The user must:

- Attribution — You must give appropriate credit, provide a link to the license, and indicate if changes were made. You may do so in any reasonable manner, but not in any way that suggests the licensor endorses you or your use.
- **ShareAlike** — If you remix, transform, or build upon the material, you must distribute your contributions under the same license as the original.
- No additional restrictions — You may not apply legal terms or technological measures that legally restrict others from doing anything the license permits.

ShareAlike

- In general, when remixing ShareAlike content, your adapter's license must be the same license as the license on the material you are adapting [or a compatible one].
- The ShareAlike condition only applies when a work is publicly shared. Users may create remixes and adaptations that they do not publish and they do not have to comply with the license conditions.
- How does the use of a SA work in/with another apply (CC Examples)?
 - ShareAlike photo being used unmodified in a larger work. Unless the larger work would be considered an adaptation of it, using a ShareAlike photo as a separate element within it does not require original materials in the larger work to be ShareAlike or compatible. The larger work may be licensed under any terms.
 - Translation of a ShareAlike work. The translation is an adaptation of the original ShareAlike work, and must be licensed compatibly. The SA-licensed original work is inseparable from the translation; it must be distributed under SA terms, as must the translator's contribution.

“[ShareAlike Interpretation](#)” by [the Creative Commons](#), is licensed under [CC-BY 4.0](#)

CC-BY-NC



The user can:

- Share — copy and redistribute the material in any medium or format
- Adapt — remix, transform, and build upon the material
- The licensor cannot revoke these freedoms as long as you follow the license terms.

The user must:

- Attribution — You must give appropriate credit, provide a link to the license, and indicate if changes were made. You may do so in any reasonable manner, but not in any way that suggests the licensor endorses you or your use.
- **NonCommercial** — You may not use the material for commercial purposes.
- No additional restrictions — You may not apply legal terms or technological measures that legally restrict others from doing anything the license permits.

NonCommercial

- Prohibits uses that are “primarily intended for or directed toward commercial advantage or monetary compensation.”
- Note: Here, the license is referring to the primary purpose for which the work is used, not the user!
- Whether a use is commercial will depend on the specifics of the situation and the intentions of the user.

[“Does my use violate the noncommercial clause of the licenses?”](#) by [the Creative Commons](#), is licensed under [CC-BY 4.0](#)

CC-BY-ND



The user can:

- Share — copy and redistribute the material in any medium or format for any purpose, even commercially.
- The licensor cannot revoke these freedoms as long as you follow the license terms.

The user must:

- Attribution — You must give appropriate credit, provide a link to the license, and indicate if changes were made. You may do so in any reasonable manner, but not in any way that suggests the licensor endorses you or your use.
- **NoDerivatives** — If you remix, transform, or build upon the material, you may not distribute the modified material.
- No additional restrictions — You may not apply legal terms or technological measures that legally restrict others from doing anything the license permits.

NoDerivatives

- Users may reproduce and Share the Licensed Material, in whole or in part; and produce and reproduce, but not Share, Adapted Material.
- You can make changes to the work, you just can't share the adapted version.

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Combo Licenses

- CC-BY-NC-SA



- CC-BY-NC-ND



Other CC “Licenses”

CC0



The person who associated a work with this deed has *dedicated* the work to the public domain by waiving all of his or her rights to the work worldwide under copyright law, including all related and neighboring rights, to the extent allowed by law.

The user can:

- You can copy, modify, distribute and perform the work, even for commercial purposes, all without asking permission.

The user must:

- When using or citing the work, you should not imply endorsement by the author or the affirmer.
- No attribution required (but think of the ethics/optics)

CC Waiver Tool

<https://creativecommons.org/choose/zero/waiver>

- Provides you with metadata that you can attach to the work you wish to dedicate to the public domain

Public Domain Mark



This work has been identified as being free of known restrictions under copyright law, including all related and neighboring rights.

Users can:

- You can copy, modify, distribute and perform the work, even for commercial purposes, all without asking permission. Users must:
- When using or citing the work, you should not imply endorsement by the author or the person who identified the work.
- Note that the work may not be free of known copyright restrictions in all jurisdictions.
- Note that in some jurisdictions moral rights of the author may persist beyond the term of copyright. These rights may include the right to be identified as the author and the right to object to derogatory treatments.
- Note that unless expressly stated otherwise, the person who identified the work makes no warranties about the work, and disclaims liability for all uses of the work, to the fullest extent permitted by applicable law.

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Iterations

It Just Keeps Getting Better

- Version 1.0, 2002
- Version 2.0, 2004
- Version 2.5, 2005
- Version 3.0, 2007
- Version 4.0, 2013
- Things changed between versions, so it's good to check the terms of the license attached to the work to make sure you don't miss anything

Recommended resource:

https://wiki.creativecommons.org/wiki/License_Versions

Translations (version 4.0)

- Translations: official, linguistic translations done through a formal process:
https://wiki.creativecommons.org/wiki/Legal_Code_Translation_Policy
- Previous versions:
 - Unported: Version that could apply internationally
 - Ported: Translated and adapted for use in certain countries

Why CC?

Pros

- Keep your copyright!
- Remember, you are not bound by the terms of the CC license...only those looking to reuse your work are!
- Get credit
- Clear cut rules for reuse
- Legally enforceable licenses
- Be in good company (over 1.4 billion CC licensed works*)

*See <https://stateof.creativecommons.org/>

Cons

- Complications can arise
 - Software
 - Music
 - 3D printing
- What if I don't like how someone has reused my work?
 - Must indicate where changes were made
 - They can't imply endorsement via attribution
 - Request that attribution be removed*

Licensing Your Works

- Do you hold the copyright?
- Remember that CC licenses are irrevocable
- Uncertain about reuses? Start conservative, then go more “open” with your license choice
- Remember, if you add on downstream restrictions you can no longer use the CC branding

Recommended Resource: Modifying the CC Licenses:
https://wiki.creativecommons.org/wiki/Modifying_the_CC_licenses

CC Choose a License Tool

<https://creativecommons.org/choose/>

License Features

Your choices on this panel will update the other panels on this page.



Allow adaptations of your work to be shared?

Yes No Yes, as long as others share alike


Allow commercial uses of your work?

Yes No

Selected License
Attribution 4.0 International

This is a Free Culture License!



Help others attribute you!

This part is optional, but filling it out will add machine-readable metadata to the suggested HTML!



Have a web page?



This work is licensed under a [Creative Commons Attribution 4.0 International License](https://creativecommons.org/licenses/by/4.0/).

Copy this code to let your visitors know!

```
<a rel="license"
href="http://creativecommons.org/licenses
/by/4.0/"><img alt="Creative Commons
License" style="border-width:0"
src="https://i.creativecommons.org/by/4.0
```

Normal
Icon

Compact
Icon

CC Australia Flowchart

Which Creative Commons licence is right for me?

Instructions

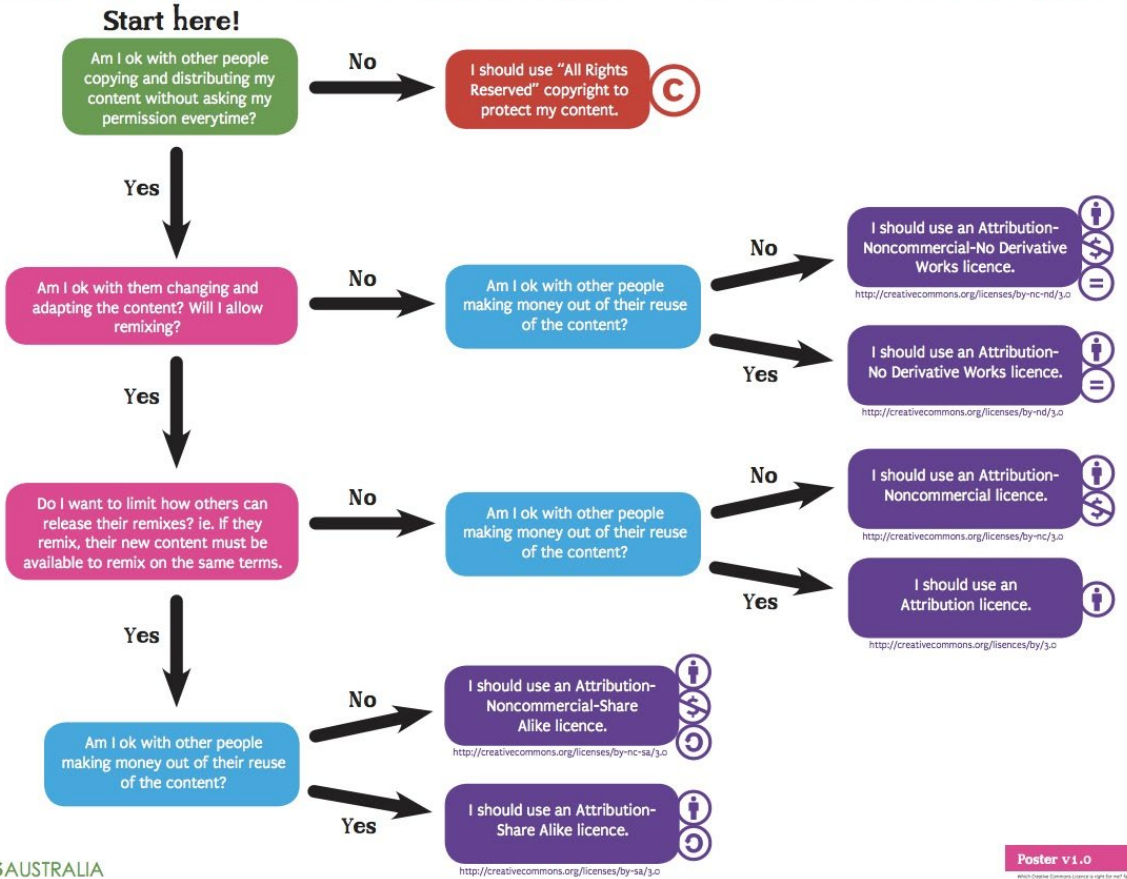
Creative Commons (CC) is a non-profit organisation that works to make it easier to share, reuse, repurpose and remix creative material. It does this by providing free licences that let creators give permission in advance for certain uses of their material.

CC encourages people to share their work. But we think it is very important that you use the right licence for you, and that you understand what that licence means. This flowchart is intended to help with this—by answering a few simple questions, it lets you choose which CC licence is right for you, or if you want to use a CC licence at all.

Start at the *green question box* and, following the arrows that correspond with your answer, make your way through the *pink remixing* and *blue commercial* questions until you reach a *purple licence box*. That will be the right licence for you. For the full details of each of the licences, see the *link* under the box.

CC has an online tool that will take you through the similar process at <http://creativecommons.org/license>.

For more information about the CC licences, see <http://creativecommons.org/licenses>.



Poster v1.0
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Labeling Your Work as a CC Work

Clearly express the license you've selected and provide related info to help the user comply with the terms of the license

- **Title**
- **Author** (who should be credited)
- **Source** (provide a URL to the original resource)
- **License** (provide a link to the CC Deed)



[“Creative Commons 10th Birthday Celebration San Francisco”](#) by [tvol](#), [CC BY 2.0](#)

Did you Adapt/Remix?

If your work is a modification or adaptation of another work, indicate this and provide attribution to the creator of the original work. You should also include a link to the work you modified and indicate what license applies to that work.

This work [insert the title of your new work] is a derivative of [insert title of original work] by [insert original authors name] licensed as a [insert CC license info]. [Insert title of new work] was created by [insert your name or handle] and is licensed under a [insert license info here]

Incorporating Third Party Works

This could include:

- Other CC works you have incorporated into your work
- “All rights reserved” works used with permission
- “All rights reserved” works used under an exception found in the law, e.g. fair use
- Public domain works

This OER is licensed under a CC-BY license. Some works incorporated into this OER are labeled as:

- Reproduced with permission from the rightsholder
- Reproduced under an individual license obtained from the rightsholder
- Reproduced under the fair use exception found in US copyright law.

For these works, users must obtain permission or a license for their reuse from the rightsholder or make their own determination regarding the application of exceptions found in copyright law to their intended reuse.

When People Don't Comply with your License

- Don't forget the exceptions factor!
- What do you do when they are in clear violation of your terms?
 - Ask for compliance
 - Remember, under the 4.0 licenses they have 30 days to remedy their error “provided it is cured within 30 days of Your discovery of the violation”
 - Pursue legal action

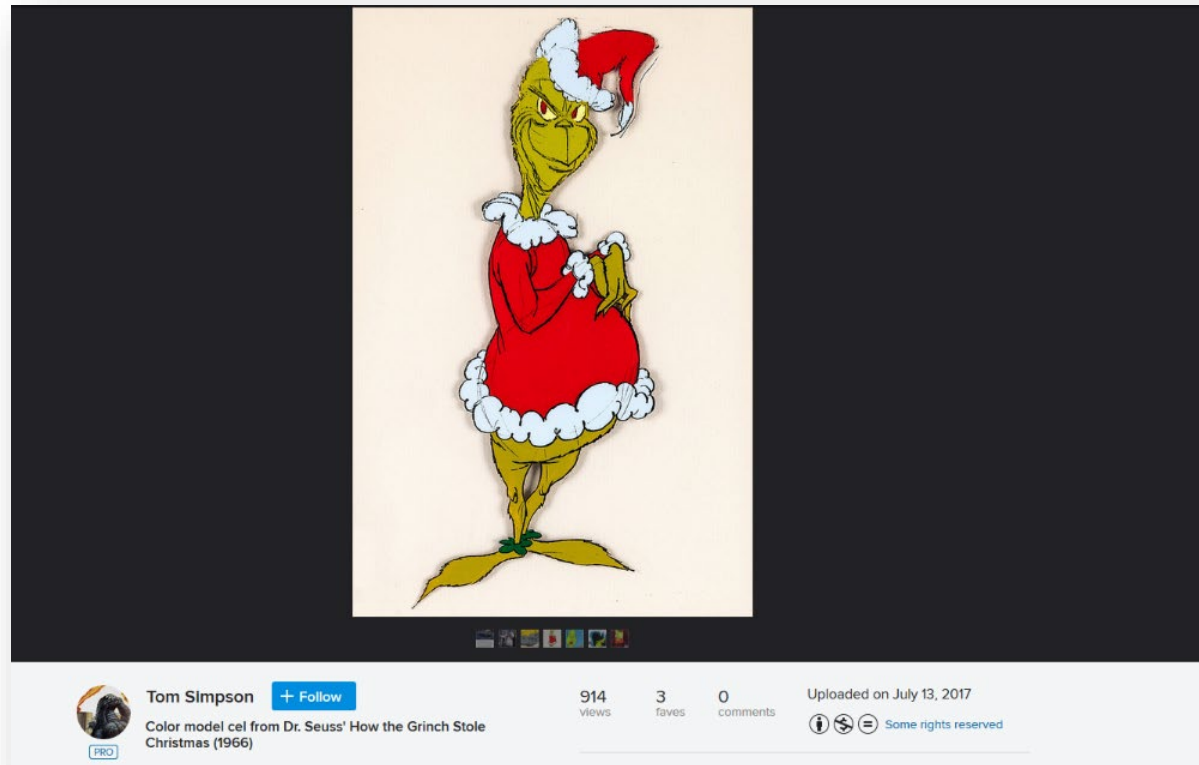
CC For Users

Pros

- Clear cut rules = no infringement worries
- Does not prevent uses that might otherwise be lawful under expectations and limitations found in copyright law

Cons

- Who is posting what?



Cons

- Other areas of IP may not be covered under the license
 - Trademarks
 - Privacy/Celebrity
- Not following the rules can get you into trouble

Finding CC Works

CC Search: <https://search.creativecommons.org/>



Search the commons...



Search for free content in the public domain and under Creative Commons licenses.

Learn more about CC licenses [here](#).


“CC Search” by [the Creative Commons](#), is licensed under [CC-BY 4.0](#)

[← Back to search results](#)



[Attribution](#) [Info](#) [Share](#)


IMAGE ATTRIBUTION

"Cheetah" by [Asylumkid](#) is licensed under [CC BY-SA 2.0](#) 

[Copy rich text](#)

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IMAGE ATTRIBUTION

"Cheetah" by Asylumkid is licensed under CC BY-SA 2.0 

Copy rich text

Copy the HTML below to embed the attribution with license icons in your web page

```
<p style="font-size: 0.9rem;font-style: italic;"><a href="https://www.flickr.com/photos/46185203@N05/11341963523">"Cheetah"</a><span>by <a href="https://www.flickr.com/photos/46185203@N05">Asylumkid</a></span> is licensed under <a href="https://creativecommons.org/licenses/by-sa/2.0/?ref=ccsearch&atype=html" style="margin-right: 5px;">CC BY-SA 2.0</a><a href="https://creativecommons.org/licenses/by-sa/2.0/?ref=ccsearch&atype=html" target="_blank" rel="noopener noreferrer" style="display: inline-block;white-space: none;opacity: .7;margin-top: 2px;margin-left: 3px;height: 22px !important;"></a></p>
```

Copy HTML

How are you using this image?

Let us know how you use this image in this quick survey

Verify at the source: [Flickr](#)

CC Search aggregates data from publicly available repositories of open content. CC does not host the content and does not verify that the content is properly CC-licensed or that the attribution information is accurate or complete. Please follow the link to the source of the content to independently verify before reuse.



[Attribution](#) [Info](#) [Share](#)

IMAGE INFO

Title
Cheetah

Creator
[Asylumkid](#)

License
[CC BY-SA 2.0](#)   

Source
[Flickr](#)

Dimensions
1024 × 768 pixels

"Cheetah" by Asylumkid is licensed under CC BY-SA 2.0

User Tips

- What do you wish to be able to do?
- Search for an appropriately licensed work
- Check the license version, then read the correct legal code (don't just go by the Deed)
- Can you really do what you want to do?
- Ask for the permission needed, if needed
- Don't forget you can consider exceptions, e.g. fair use. In these situations, you are not required to comply with the license...this includes giving credit (but giving credit is still the nice and ethical thing to do)
- Provide attribution as required by the legal code* (Title, Author, Source, License)
- Note if modifications were made
- Provide attribution for each work used
- Don't put into place barriers for others using a CC work you may have copied
- Licensing your work as a CC work? Make it as "open" as possible

CC Remix Chart

	PUBLIC DOMAIN	PUBLIC DOMAIN	BY	BY SA	BY NC	BY ND	BY NC SA	BY NC ND
PUBLIC DOMAIN	✓	✓	✓	✓	✓	✗	✓	✗
PUBLIC DOMAIN	✓	✓	✓	✓	✓	✗	✓	✗
BY	✓	✓	✓	✓	✓	✗	✓	✗
BY SA	✓	✓	✓	✓	✗	✗	✗	✗
BY NC	✓	✓	✓	✗	✓	✗	✓	✗
BY ND	✗	✗	✗	✗	✗	✗	✗	✗
BY NC SA	✓	✓	✓	✗	✓	✗	✓	✗
BY NC ND	✗	✗	✗	✗	✗	✗	✗	✗

“Does my use violate the noncommercial clause of the licenses?” by [the Creative Commons](#), is licensed under [CC-BY 4.0](#)

CC Licenses in Court

Drauglis v. Kappa Map Groups

- Drauglis took a photograph that he posted to Flickr under a CC-BY-SA 2.0 license
- Kappa used the photograph on the front of an atlas they published
- Drauglis sued Kappa, arguing that the atlas should have been an SA work and that the attribution they provided was not in compliance with the license.

Attribution

- The following credit was placed on the back cover of the atlas by Kappa:

Photo: Swain's Lock, Montgomery Co., MD

Photographer: Carly Lesser & Art Drauglis, Creative Commons
[sic], CC-BY-SA-2.0

- Identifies the license, even though it does not link to it, and the placement on the back cover was ok
- A copyright notice by Kappa placed inside the book did not convey ownership of the copyright in the photograph

SA Application

- The court found that the atlas is not a derivative of the photo, but more of a collective work
- The court noted that cropping the photo slightly does not constitute a derivative

Drauglis v. Kappa Map Groups

- Read the case here:

<https://law.justia.com/cases/federal/district-courts/district-of-columbia/dcdce/1:2014cv01043/166825/39/>

- CC Case Summary:

https://wiki.creativecommons.org/wiki/Drauglis_v._Kappa_Map_Group,_LLC

Great Minds Lawsuits

- Great Minds brought suit against FedEx and Office Depot for making copies of educational works they had licensed as CC-BY-NC-SA 4.0 works
- In both instances, a not for profit school asked that they make the copies on their behalf, and both companies charged the school over and above their costs.
- CC weighed in in amicus briefs stating that a NC user may work with contractors to exercise the license on their behalf. The businesses could not make the copies and sell them at a profit, but a qualified user under the license can ask them to do so.

Great Minds Lawsuits

- Great Minds v. FedEx, District Court Ruling:
<https://assets.documentcloud.org/documents/4954025/2017-02-24-Order-Dismissing-Complaint-Against.pdf>
- Great Minds v. FedEx 2nd Circuit Court Ruling:
<https://assets.documentcloud.org/documents/4954024/2018-03-21-Great-Minds-Opinion-CA2-17-808.pdf>
- Great Minds v. Office Depot:
<https://assets.documentcloud.org/documents/4954026/2018-01-18-40-Decision-Granting-Dismissal-of.pdf>
- CC Info About the Lawsuits:
<https://creativecommons.org/2018/04/02/recent-u-s-legal-decision-reinforces-strength-cc-licenses/>

Philpot Lawsuits

Larry Philpot is a photographer who has brought a series of lawsuits against users who he feels have not complied with the terms of the CC licenses he attaches to his photographs. Many have to do with failure to provide attribution or correct attribution. In these situations, the courts have considered of the use could be considered a fair use, which would not require attribution.. So far, findings have included:

- [Philpot v. WOS](#) – not a fair use
- [Philpot v. Media Research Center Inc.](#) – fair use
- [Philpot v. LM Communications](#) – not a fair use
- [Philpot v. Altnet Media](#) – more fact finding on fair use
- Lesson to be learned, provide attribution and follow the terms of the license

Putting it all Together

The CC is a Useful Tool for Creators

- Independent creators and those looking to reuse the works of others
- In either situation, creators should work to familiarize themselves with the full license terms and follow them!
- Lots of applications for CC licenses in higher education
- As academic librarians, we can help guide faculty, students, and our colleagues to information about the CC that will empower them to make effective decisions about their application and use

Learn More

- CC FAQ Page: <https://creativecommons.org/faq/>
- CC Certificate:
<https://certificates.creativecommons.org/about/certificate-resources-cc-by/>

Carla Myers
Coordinator of Scholarly Communications
Miami University
myersc2@miamioh.edu

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