

Terminology and Intellectual Property Rights

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Overview:

Terminology?

Recent cases

Introduction to IPR

(see also: <http://www.wipo.int/copyright/en/about/>)

- What does „copyright“ mean?
- Legal bases
- What is protected by copyright?

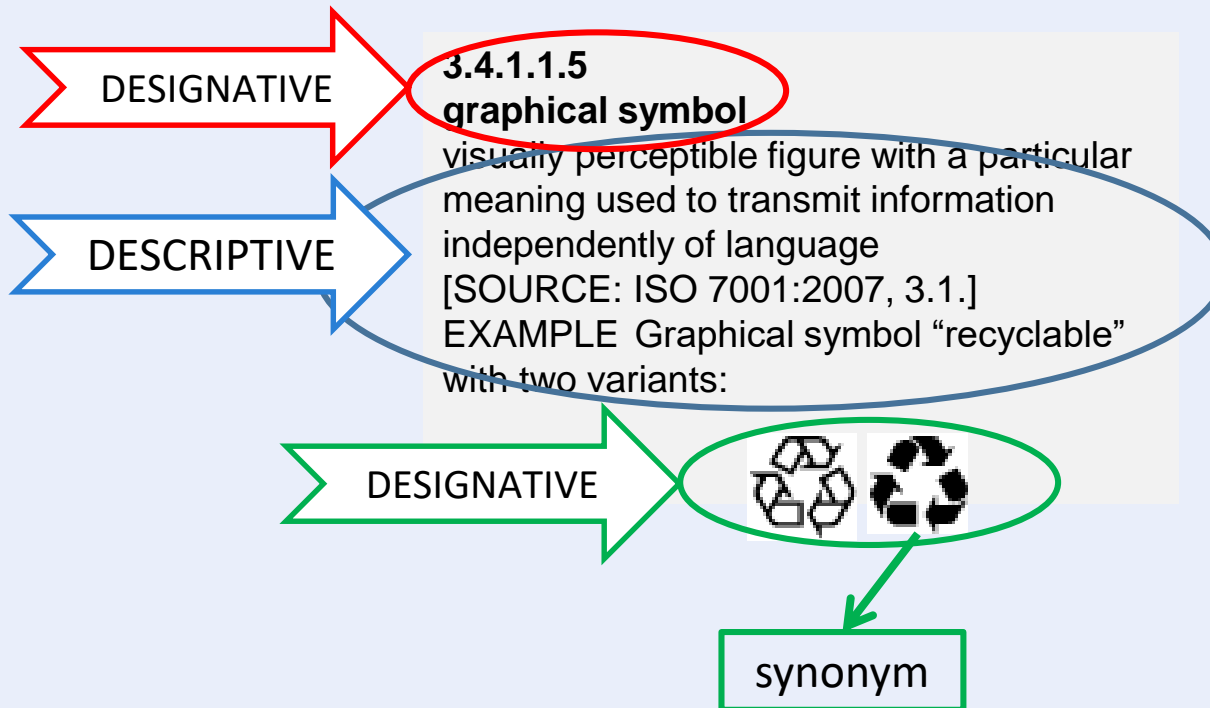
Terminology as subject to copyright

Translation and copyright

New developments



Terminological entry Conforming to international standards

[SOURCE: ISO 10241-1:2011]



Microlearning object example Learning object: Kanji Flashcard: 「休」

Front side: kanji, examples and additional information →

- 10 → キュウ
- 11 → やす・む/やす・まる/やす・める
- 12 → rest, take a day off, relax
- 13 →  person  tree
- 14 → 1: ていきゅうび a regular holiday {for a store}
 2: ひとやすみする to take [have] a (short) rest
 3. やすまる to be [feel] rested; to be relieved
 4: やすむ to rest; to take a day off; to sleep
 5: やすみ (a) rest; a holiday; (a) vacation; a day off
 6. きゅうじつ a day off; a holiday
- 15 →
- 16 →

← Back side: lexems, pronunciation, meanings and additional information

Source: Whiterabbit kanji flashcard

Also: distinction between PRIMITIVES and COMPOSITES

Non-verbal representation: Helicopter marshalling signals



Terminology database

Data categories (metadata)
Structure
Primary data
(=microcontent)

Case 1: Disclaimer

The Europeana.eu website is run by the Europeana Foundation and gives access to a wide range of digitised cultural heritage from across Europe and beyond.

This material is provided to Europeana by a large number of contributing institutions and organisations. Europeana strives to make all resources on this website available for re-use.

As part of this, all **metadata** (textual information on digitised cultural heritage) on the site are published without any restrictions on re-use.

Most other material, such as the **previews** to digitised cultural heritage, is **clearly labelled with rights statements** that indicate if and under which conditions it can be re-used.

Necessary/useful/sufficient?

Case 2: Suppression of copyrighted items

A lawyer detected in WebTerm **ONE** (=1) photo (for which a relative of a photographer had inherited the author's rights) among tens of thousands of terminological entries from diploma or master theses, and sued the TH Köln (University of Applied Sciences, Cologne) in court.

<http://www.iim2.fh-koeln.de/webterm/>

WebTerm

Terminologiesammlungen aus Diplomarbeiten an der
Fachhochschule Köln

**Hinweis: Bilder und Grafiken der terminologischen
Einträge wurden aus Urheberrechtsgründen
enfernt!**

(NOTICE: Pictures/photos and graphic representations were removed due to reasons of originators' rights)

Case 3: Removal of a graphic representation

**A student of Vienna University
who wanted to submit in digital form
a doctoral thesis comprising terminological aspects
had to remove a graphical representation
because the creator of that representation did not approve
the reuse (quotation) of the representation
from a published book**

WHY?

Case 4: (fictive) risk with dialogue data

Speech corpora – especially predetermined sequences of spoken dialogue – are more subject to copyright than ordinary text.

Data in dialogue databases may be protected under the EU Directive for the protection of databases.

The use of spoken dialogue (e.g. by visually impaired persons) and transcribed spoken dialogues (for other persons with disabilities, PwD) may risk to be interdicted, even if not infringed deliberately.

BIZARRE?

Case 5: automatic Wikipedia entries

Certain ICT tools which search the Internet – especially blogs – can automatically generate rudimentary Wikipedia entries.

As automatically generated “content“ they are not protected by CR.

... the software may be protected!

However, what about thousand of such automatically generated entries? – can they be regarded as a database?

This is becoming a reality! ;-)

Case 6: protection under trademark

CATS – Computer-Aided Terminology System

CATS® is a registered trademark of Univ.-Prof. Dr. P. A. Schmitt (Leipzig) und M. Schultze-Griebler (Dresden)

CATS™ is a *musical* composed by Andrew Lloyd Webber, based on Old Possum's Book of Practical **Cats** by T. S. Eliot, and produced by Cameron Mackintosh
© 1986 Really Useful Group Ltd. | All Rights Reserved

Both are available on CD-ROM

→ the **CR owners of the CATS software were accused of IPR violation**

Case 7: Content identification technologies

- **Dilemma for rights owners:**
 - Too many risks & possibilities for users to infringe copyright
 - New marketing and business opportunities
 - Tracking content for tracing CR infringement is difficult
- **Internet Service Providers (ISP) are more and more legally required to inhibit CR infringement**
- **If CIT are applied in the US → limitations of liability might be lost**

Endless spiral: → new technology → new laws or other regulations → new technology ...
always implying benefits for some and disadvantages for others

Case 8: „Share“ button on Facebook

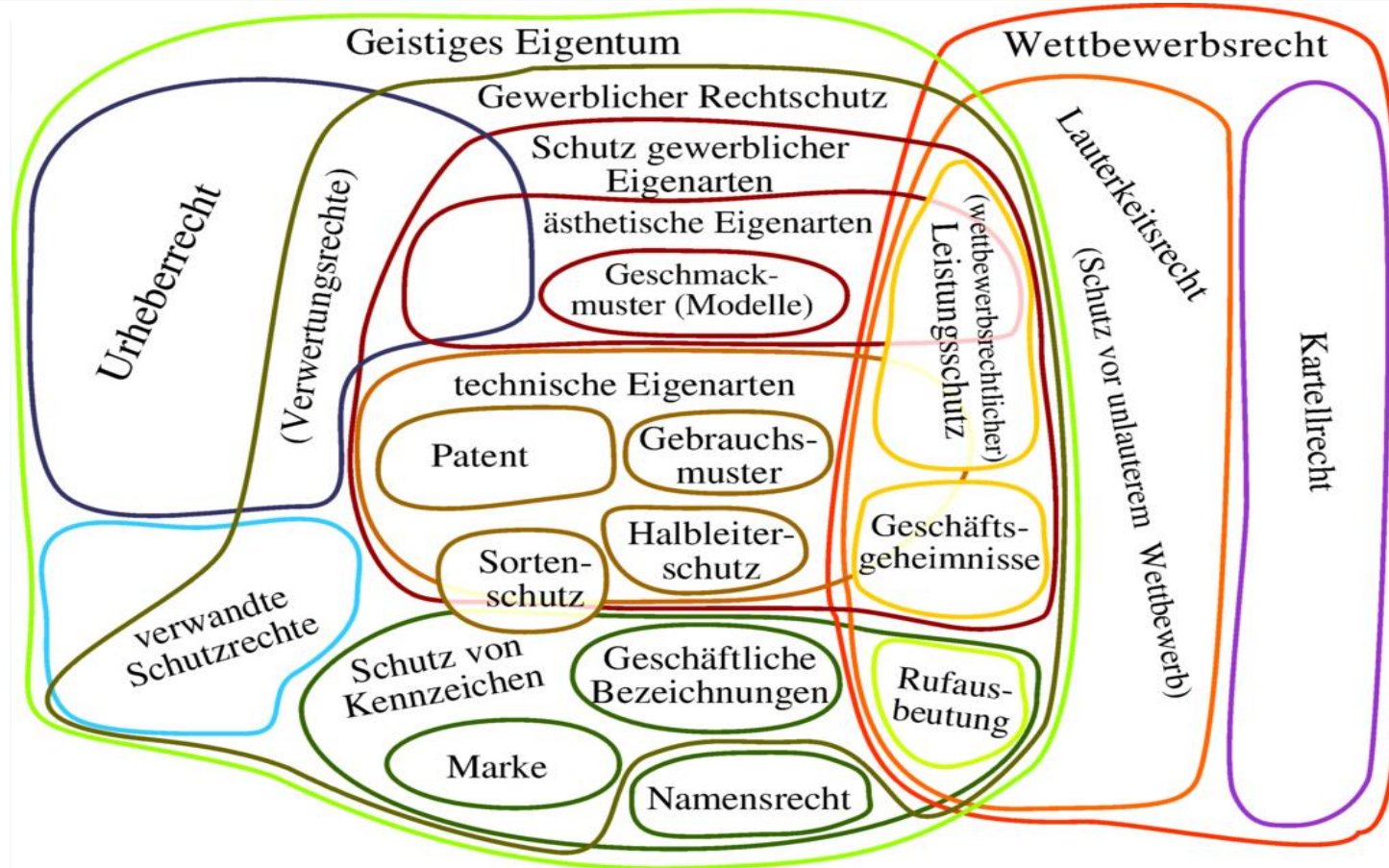
- **Facebook user was fined 1.000 Euro for sharing the photo of a sports champion**
(23.03.2015)
- Blogger, online media, Internet users: all under risk
- Photo shared without explicitly mentioning the ‘originator’ viz. a cameraman taking the picture
- **Anyone in the chain from the ISP – via distributor – to the user can be made liable**

Copyright and IPRs in general

Copyright

belongs to a family of
intellectual property rights (IPR)
and related/neighbouring rights

IPRs and related/neighbouring rights



http://de.wikipedia.org/wiki/Geistiges_Eigentum

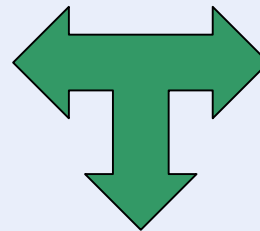
What does copyright mean?

- **Copyright** is a set of **exclusive rights** regulating the use of a **particular expression** of an **idea or information** (<http://en.wikipedia.org/wiki/Copyright>)
 - **/Copyright/** (=author's/originator's right) is the exclusive right of an author/originator to his/her work (<http://de.wikipedia.org/wiki/Urheberrecht>)
- ➔ 2 different concepts of "author's right":
- "copyright" in Anglo-American law
 - "droit d'auteur" / "Urheberrecht" in continental European law

Copyright as a stimulus for progress

COPYRIGHT

intended as stimulus
for artistic creation
and scientific research
in order to



ensure wide distrib-
ution of the results of
intellectual works
in order to

- **promote scientific,
social and
intellectual progress**

International law – Development

- **1886: Berne Convention**
for the Protection of Literary and Artistic Works
 - **1952: Universal Copyright Convention (UCC)**
developed by UNESCO as an alternative to the Berne Convention
 - **1994: Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS)**
negotiated at the end of the Uruguay Round of the General Agreement on Tariffs and Trade (GATT) is administered by the World Trade Organization (WTO)
 - **1996: WIPO Copyright Treaty and WIPO Performances and Phonograms Treaty (WPPT)**
 - **+ EU Directives**
- Complementarity and subtle differences in terms of
Implementation at national level + different legal practice
- NEW:** Transatlantic Trade Investment Partnership **TTIP** → **CETA**

WIPO Copyright Treaty

World Intellectual Property Organization Copyright Treaty

- Adopted in 1996
- Adds issues raised by ICT and Internet to the Berne Convention
- Art. 4: computer programs are protected as literary works
- Art. 5: protection covers the arrangement and selection of material in databases

Authors' rights vs. Copyright

FR: Droit d'auteur (1791-1793)

DE: Urheberrecht (1870/1871)

UK: Statute of Anne (1709)

US: Copyright Act (1790)

- | | |
|---|---|
| <ul style="list-style-type: none"> • Emphasises creativity • Originator = natural person • Registration not required • Difference: moral rights and exploitation rights • Only exploitation rights can be transferred | <ul style="list-style-type: none"> • Emphasises business • Natural or legal persons can own copyright • Registration not absolutely required • Copyright comprises exploitation rights • Copyright can be transferred |
|---|---|

EU Directives

- **96/9/EC on the legal protection of databases**
 - 2000/31/EC on certain **legal aspects of information society services** in particular electronic commerce, in the Internal Market
 - **2001/29/EC on the harmonisation of certain aspects of copyright and related rights in the information society**
 - 2004/48 EC on the **enforcement of intellectual property rights**
- ➔ **Implementation at national level + different legal practice**

Terminology as subject to IPR – I

Not protected/protectable:

- Information
- Ideas
- Knowledge
- Text below a certain threshold – e.g. a definition

Protected/protectable:

- Representations and arrangements of knowledge
 - **Texts** (and other kinds of content above a certain threshold)
 - **!Non-linguistic representations!**
 - **Databases** (containing linguistic and non-linguistic data)

Terminology as subject to IPR - II

Terminology resources can comprise:

- terminological data proper, such as
 - linguistic data
(terms, abbreviations, symbols, definitions, other kinds of explanatory texts, etc.) – trade marks? word-design mark?
 - non-linguistic data
(graphical symbols, images, complex graphs, logos etc. to which different copyright provisions and other IPRs can apply)
- associated information

Terminology as subject to IPR – III

Do the following constitute copyright or some other IPR?

- concepts
- terms
- proper names (✓) (*esp. if trademark/logo protected*)
- definitions etc.
 - definitions proper
 - explanations? (✓)
 - citations, defining contexts, ... (✓)
- other kind of concept description (✓)
- pictures ✓
- formulae (✓)
- graphical representations (✓)

Exploitation rights

Comprise the right of

- Reproduction
- Performance to the public
- Translation, adaptation, other alteration
- Using and distributing altered versions of the work
- Distribution (in general)

➔ **Collective rights management & CR collecting societies/agencies**

Limitations and exemptions

- Reuse of data without permission and royalties
 - Quotation
 - Private purposes
 - Illustration for teaching or research
 - Public security
 - Administrative or judicial procedure
 - Anglo-American law: “fair use”, “fair dealing”
- of course there are activities to restrict these limitations/exemptions

TM = database?

Collection of independent elements AND
a **substantial investment**



k1233788 www.fotosearch.de

Astrid Cruse, Starnberg

TM = database work?

Collection of independent elements AND
a **personal intellectual creation**
(in terms of the content or structure of the database)



Astrid Cruse, Starnberg

Digital rights management – DRM

Past: *main obstacles to terminological data exchange:*

- No/inconsistent use of harmonized data categories
- No application of standards-based data model
- No application of commonly used classification scheme, references to sources of information etc.

Today: *new obstacles to web-based cooperation
(WRT data exchange and distribution):*

- “volatility” of Internet sources
- Different types of links → **surface-links vs. framing**
- Different copyright on individual content items



Minimum DRM functions have become imperative

Approach to a DRM solution

(1) Unique identification of the resource:

– Conventional publications:

- ISBN, ISSN, ISAN, ISTC, ISWC, ...;
- DOI: ISO 26324:2012; ISLI: ISO 17316:2015, ...;

– Individual data (micro-resource):

- ISO/TS 29002-5:2009 Industrial automation systems and integration – Exchange of characteristic data – Part 5: Identification scheme

(2) Indication of position of copyrighted element in the resource

(3) Indication of time of use/retrieval

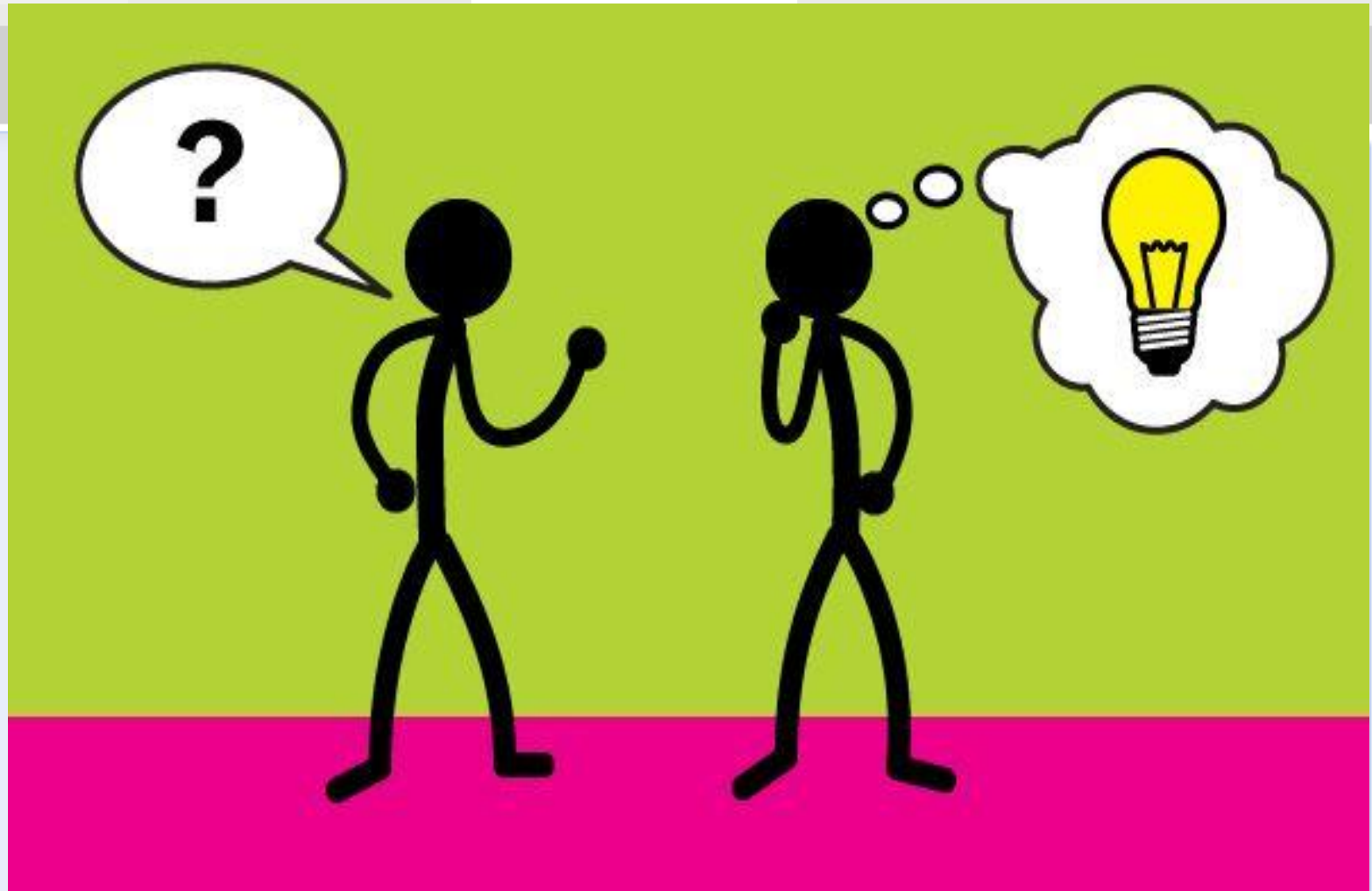
(4) Indication of copyright relevance

(5) Indication of kind of license (in coded form)

(6) Indication of use conditions (in coded form)

(1) resource ID	(2) slot	(3) time stamp	(4) IPR y/n	(5) licence	(6) use conditions
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→ alternative: use Creative Commons (CC)





References:

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