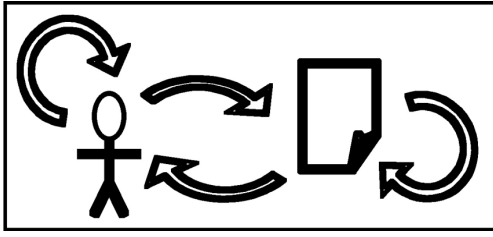





Legal issues in Social Media

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 Culturelibre.ca | OutFind.ca
 @culturelibre | @OutFindCA

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In using information...

The Law **forbids** what technology **allows**

Our **social norms** have not yet adapted, that is why we revert to « **hard law** »



In using digital information...

The Law **forbids** what technology **allows**

Copyright	Trademarks
Privacy & personal information	Patents
Anonymity & image rights	Secrets
Speech issues:	...
Libel, defamation, hate, freedom	
...	





In using digital information...

Is there a way out?

forbids what **allows**


Copyright	KS
Privacy	ts
Anonymity & im	ts
Speech issues:	...
Libel, defamation, hate, freedom	
...	

Permissions!

Outline

- Copyright
- Privacy & Personal Information
- Anonymity & Image Rights
- Solutions: controls or permissions?



Intellectual Property / Propriété intellectuelle

Chart 1.1: The instruments of IP and common applications

Gowers Review of Intellectual Property, UK, 2006, p.13

Intellectual Property / Propriété intellectuelle

Copyright	Droit d'auteur
Patents	Brevets
Trademarks	Marques de commerce
Industrial Designs	Design Industriels
...	...

Copyright / Droit d'auteur

Artistic, literary, dramatic, musical, <u>works</u>	<u>Œuvres</u> artistiques, littéraires, dramatiques, musicales
--	---

Copyright / Droit d'auteur

Artistic, <div style="background-color: red; color: white; padding: 2px; display: inline-block;">Everything we use in social media!</div> musical, <u>works</u>	<u>Œuvres</u> <div style="background-color: red; color: white; padding: 2px; display: inline-block;">Tout ce que nous utilisons sur les médias sociaux!</div>
---	---

© = contrôle

(1) Protect a work's economic market (right-holder) (2) Protect the creative endeavour (creator)	(1) Protéger le marché économique d'une oeuvre (titulaire) (2) Protéger la démarche artistique (créateur)
---	--

Copyright	Droit d'auteur
Economic + artistic right	Droit économique + artistique
[Sole] Right to exploit (produce, reproduce, execute in public, publish; + adapt, translate...)	Droit [exclusif] d'exploitation (produire, reproduire, exécuter en public, publier; + adapter, traduire...)
Automatic (fixation, originality)	Automatique (fixation, originalité)
Term (public domain)	Durée (domaine public)
Transfer in writing (contract)	Transfert par écrit (contrat)
Moral right (Integrity, paternity)	Droit moral (intégrité, paternité)

Absolute Control? Contrôle absolu ?

«La propriété c'est le vol!» (Proudhon)
«He who lights his taper [candle] at mine
receives light without darkening me»
(Jefferson)



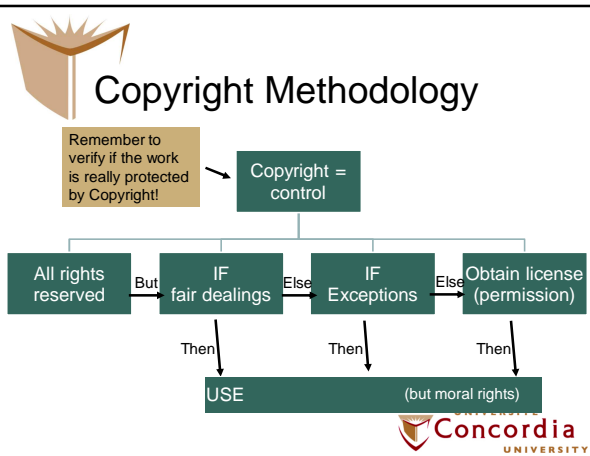
Contrôle absolu ? Not exactly / pas exactement

Fair dealings / Utilisation équitable
(Fair use)
& Exceptions



Contrôle absolu ? Not exactly / pas exactement

Else, get permission!
Sinon, obtenir permission!



Privacy & Personal Info

- Data for your identity
 - Name
 - Student record
 - Credit card numbers
 - Date of birth
 - ...
- Data protection
- Principles:
 - Collection Limitation
 - Data Quality
 - Purpose Specification
 - Use Limitation
 - Security Safeguards
 - Openness
 - Individual Participation
 - Accountability

Source: OECD, 1980



Anonymity & Image rights



- Not allowed, unless "public interest":
 - engaged in a public activity or has acquired a certain notoriety
 - previously unknown individual is called on to play a high-profile role
 - accidentally places him or her in the photograph in an incidental manner.

Aubry v. Vice Versa, ¶ 58



So... what are we to do?

Ask for permission,
Transfer risk
Keep records
Or refrain from using information



So... what are we to do?

Policies!

VPIRSG-2, -4, -5, -9, VPRGS-9,
Academic Codes

Contracts!

Wavers, Permissions, Licences

Or refrain from



“Code is Law” (Lessig)

“A contract is an agreement of wills by which one or several persons obligate themselves to one or several other persons to perform a prestation”
(Qc Civil Code, s. 1378)



Further reading

- Aubry v. Éditions Vice-Versa inc., [1998] 1 SCR 591
 - Para 58, <http://canlii.ca/1/f6t7>
- Canadian Intellectual Property Office, *A Guide to Copyrights*, Industry Canada, 2008
 - http://www.ic.gc.ca/eic/site/c-ipointernet-internetopic.nsf/eng/h_wrt0281.html
- *CCH Canadian Ltd. v. Law Society of Upper Canada*, 2004 SCC 13, [2004] 1 S.C.R. 339
 - Para 52-76 <http://www.canlii.org/en/cascc/doc/2004/2004scc13/2004scc13.html>
- CÉFRIO, *Gérer les enjeux et risques juridiques du Web 2.0*, 2012
 - <http://lesjures.cedri.fr/opus/2012/01/01/Document-gerer-les-enjeux-juridiques-03-web-20/>
- Concordia University Libraries, *Copyright Guide*
 - <http://library.concordia.ca/help/copyright/>
- Copyright Act, R.S.C. 1985, c. C-42
 - Art. 3.5, 6, 13, 14.1-14.2, 27-28.2, 29-32.2 <http://www.canlii.org/en/ca/laws/stat/rsc-1985-c-c-42/>
- Murray, Laura J. and Samuel E. Trosow, *Canadian copyright : a citizen's guide*, Toronto : Between the Lines, 2007
 - <http://ciwest.concordia.ca/3ccord452276747-50>
- OECD, *Guidelines on the Protection of Privacy and Transborder Flows of Personal Data*, 1980
 - http://www.oecd.org/document/18/0,3343,en_2649_34255_1815186_1_1_1_1,00.html

