

Dealing with Image Rights in Publishing

UZH Open Science Lunch & Learn

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Today's goals

Copyright

- When** is an image protected by copyright?
- How** am I allowed to use an image?
- How to ask for **permission**?

Data Protection

- When** do I need to consider data protection?
- How to ask for **consent**?
- When are data fully **anonymized**?



Image generated by ChatGPT

COPYRIGHT

When is an image protected by copyright?

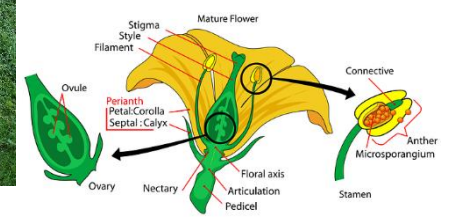
Copyrighted work

Any literary and artistic creation

- ✓ Intellectual creation
- ✓ Form of expression
- ✓ Individual character



#	Author in Purjaki	Author en	Books pa	Books en	Year	Edition	Location
1	સચ્ચી શાહ	Karwar Singh	ગુણવંતી ઢીંગણ	Gurkanti Kriyan	1949	1	Ambar
2	મહાત્મા ગાંધી	Bha Mehar Singh Raggi	ગાંધી સંબંધ	Gandhi Sambandh	1949		Ambar
3	સચ્ચી શાહ	Gyani Mania Singh	સચ્ચી શાહ	Jhakya	1941	1	Lathia
4	સચ્ચી શાહ	Karwar Singh Khan	સચ્ચી શાહ	Jai Tranga	1950		Tala Nagar
5	સચ્ચી શાહ	Majar Maheshwar Singh	સચ્ચી શાહ	Kala Mandir	1951	1	Lathia
6	સચ્ચી શાહ	S.N. Neer	સચ્ચી શાહ	Masrah Narda	1944	1	Ambar
7	સચ્ચી શાહ	Khushal Singh Chohan	સચ્ચી શાહ	Mania Nagma	1950	1	Dethi
8	સચ્ચી શાહ	Tarunam Singh Gai	સચ્ચી શાહ	Nai Vaid	1950	1	Muga chakul
9	સચ્ચી શાહ	Harbansh Armani	સચ્ચી શાહ	Usha Bai Lal	1957	1	Lathia
10	સચ્ચી શાહ	Bha Hira Singh	સચ્ચી શાહ	Pingal Shakh	1914	1	Ambar
11	સચ્ચી શાહ	Kuldeep Singh Sathi	સચ્ચી શાહ	Raj Kumar	1946	1	Ambar
12	સચ્ચી શાહ	Jyotnar Pardeep Singh Gyan	સચ્ચી શાહ	Ramul Teacher	1953	1	Ambar
13	સચ્ચી શાહ	Harinder Singh Raoo	સચ્ચી શાહ				Ambar
14	સચ્ચી શાહ	Bharat Singh Anand	સચ્ચી શાહ				Ambar
15	સચ્ચી શાહ	Khawa Singh Malik	સચ્ચી શાહ				Ambar
16	સચ્ચી શાહ	Gyan Usham Singh	સચ્ચી શાહ				Ambar
17	સચ્ચી શાહ	Tarak Singh Vaid	સચ્ચી શાહ				Ambar
18	સચ્ચી શાહ	Dhan Ram Chakr	સચ્ચી શાહ				Ambar
19	સચ્ચી શાહ	Jagdish Singh	સચ્ચી શાહ				Ambar



WHEN IS AN IMAGE PROTECTED BY COPYRIGHT?

Copyrighted work

Exception (Swiss law): photographs

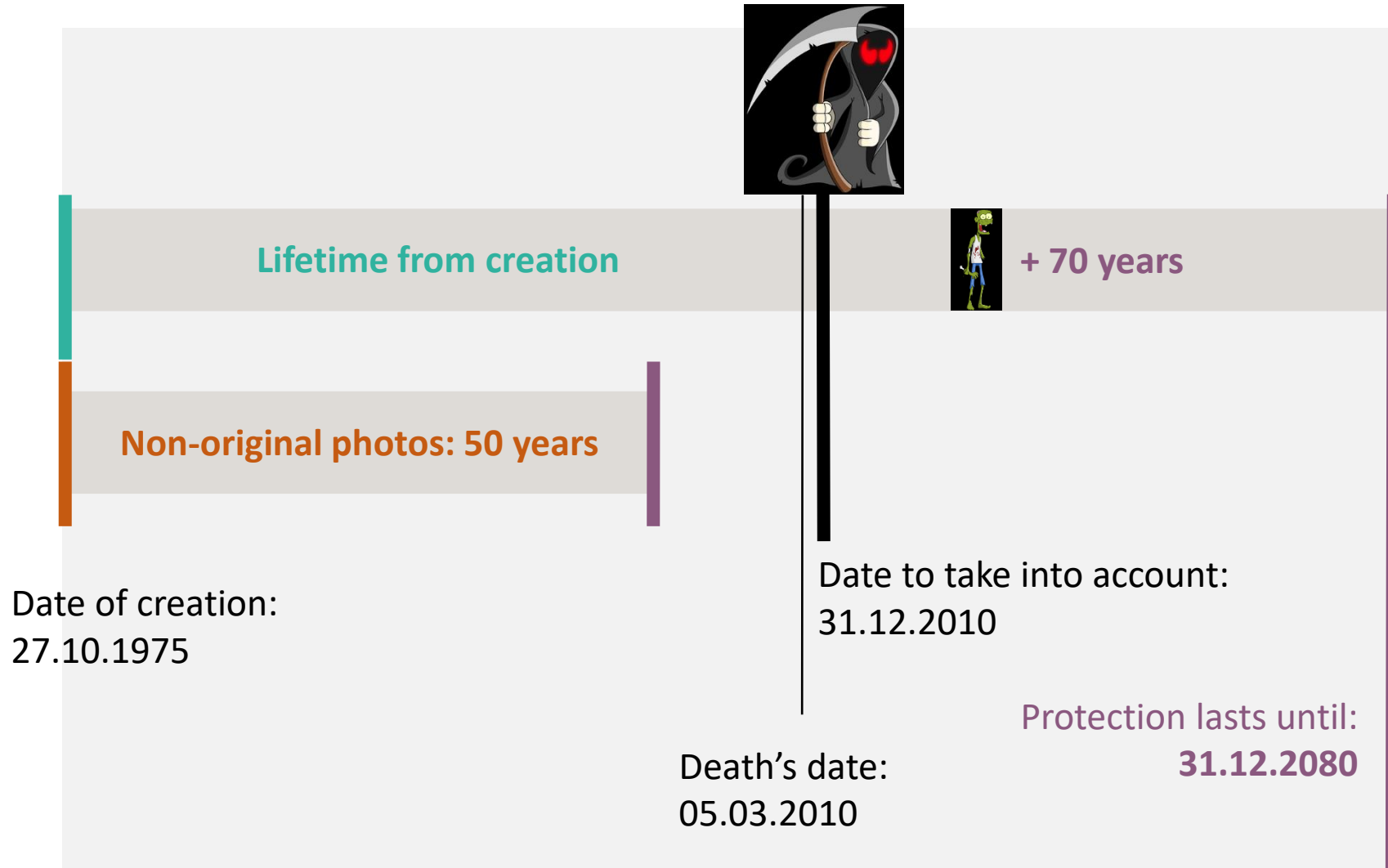
- ✓ Intellectual creation
- ✓ Form of expression
- ✓ Depiction of three-dimensional object



Bundesarchiv, Bild 183-14059-0005
CC-BY-SA 3.0



WHEN IS AN IMAGE PROTECTED BY COPYRIGHT?



→ **Public Domain**

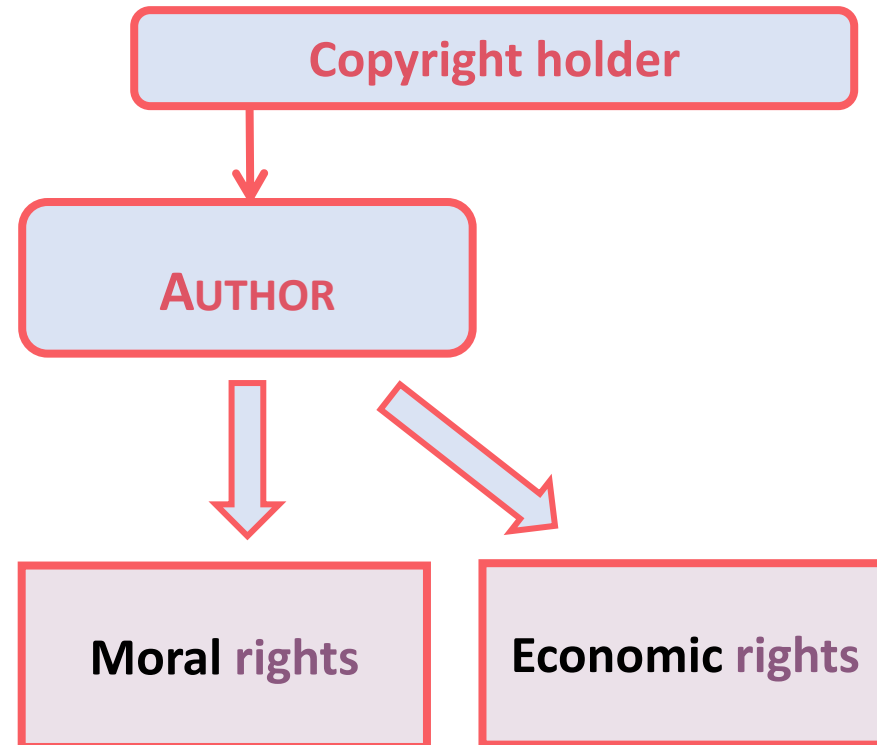
01.01.2081

01.01.2025

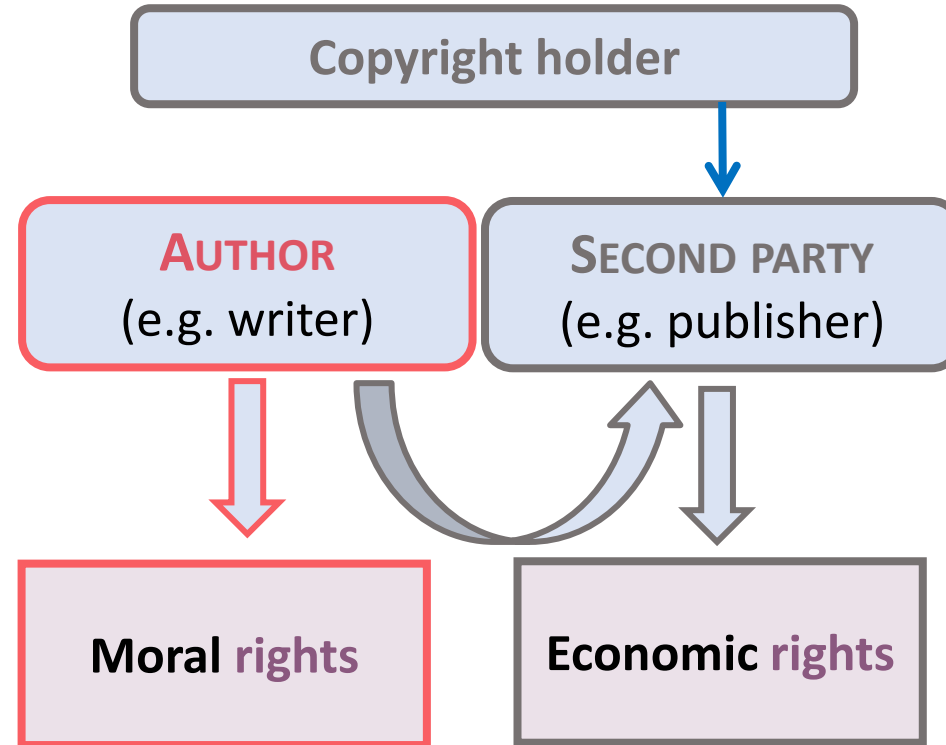
Who is the author and who is the rights holder?

WHO IS THE AUTHOR AND WHO IS THE RIGHTS HOLDER?






THE AUTHOR



THE
RIGHT HOLDER



SWISS COLLECTING SOCIETIES

	ProLitteris deals with literature and the plastic arts.
	The Société Suisse des Auteurs or SSA ("Swiss Society of Authors"), for theatrical, theatrical-musical, choreographed and some audiovisual and multimedia works.
	SUISA for non-theatrical musical works.
	Suissimage for audiovisual works.
	Swissperform for related rights.

<https://www.ccdigitallaw.ch/5101-swiss-collecting-societies/>

How am I allowed to use an image?

Copyright

The **rule** is:

Always ask the rights holder for **permission** to use a protected work

There are **exceptions**:

- Private use
- Educational purposes
- Professional purposes
 - Right of quotation
- Text & data mining for research purposes

HOW AM I ALLOWED TO USE AN IMAGE?

1.



Exceptions permitted by law

2.



Bilateral license

Image by vectorjuice on Freepik

3.



Predefined license

Vectorial.com

A. I'm the photographer

- I take an original photo
- I take a photo of an artwork

B. I'm a user

- Image found online
- Image from an archive

A. I'm the photographer

- I take an original photo
- I take a non-original photo
- I take a photo of an artwork



A. I'm the photographer

- I take an **original** photo
 - My photo is **protected**. I am the author, am I also the rights holder? If yes, **I can choose** what to do with the image.

- I take a **non-original** photo
 - My photo is **protected**. I am the author, am I also the rights holder? If yes, **I can choose** what to do with the image.

- I take a photo of an **artwork**
 - Not only my photo, but also the photographed artwork might be **protected**. → Check **Freedom of panorama** or **request permission**.

B. I'm a user

- Image found online
- Image from an archive



<https://pixabay.com/images/id-6615901/>



Bundesarchiv, Bild 183-14059-0005 / CC-BY-SA 3.0

B. I'm a user

- Image found online
 - Is the image (still) protected by copyright? If yes, does it have a **license** that allows reuse? If yes, you can use it (check the license terms); if not, check the **Quotation** requirements or request **permission**, especially if you plan to use it worldwide (open access).

- Image from an archive or a book
 - Is the image (still) protected by copyright? If yes, does it have a **license** that allows reuse? If yes, you can use it (check the license terms); if not, check the **Quotation** requirements or request **permission**, especially if you plan to use it worldwide (open access).
 - You might also need to accept the **archive's terms** to use the image.

HOW AM I ALLOWED TO USE AN IMAGE?

1.



**Exceptions permitted
by law**

2.



Image by vectorjuice on Freepik

Bilateral license

3.



Vectorial.com

Predefined license

Art. 19 Swiss Copyright Act Private use



- **Any use** is allowed (read, watch, view, see, copy, modify, ect.) without sharing
- When **sharing**: only with very small circle of persons

Art. 25 Swiss Copyright Act Right of quotation



Published works may be quoted if the quotation serves as:

- **explanation,**
 - **reference** or
 - **Illustration.**
- ✓ The **extent** of the quotation is **justified for such purpose**
(Swiss jurisprudence: ok quotation of entire image, if necessary)
- ✓ Must give proper **attribution** to the author(s)

Art. 27 Swiss Copyright Act Freedom of panorama

- ✓ Work **permanently** situated in a place **visible to the public**
 - no 3D reproduction
- In some countries, cultural heritage protection may impose limits (including on public domain works)!



Art. 22b Swiss Copyright Act Use of orphan works

- **Right holder unknown** or cannot be found
- Appropriate **research effort**
- Contained in collections held by public or publicly accessible libraries, educational institutions, museums, collections and archives in Switzerland

→ Collecting society (= Prolitteris)

Art. 43a Swiss Copyright Act Extended Collective Licenses

✓ Use of a large number of published works

→ Collecting society

Prolitteris: https://prolitteris.ch/wp_update2020/wpcontent/uploads/meldeformular_erweiterte_kollektivlizenz_2020.pdf)

How to ask for permission?

HOW AM I ALLOWED TO USE AN IMAGE?

1.



Exceptions permitted by law

2.



Image by vectorjuice on Freepik

Bilateral license

3.



Vectorial.com

Predefined license

Ask for permission through a bilateral license to use

- You directly ask the rights holder for permission to use an image
 - Via email or any written form
 - The rights holder may provide a permission request form to be completed.
 - You are granted a non-exclusive license to use
 - Royalties-free or under payment

- You may ask the Collecting Society (Prolitteris) for help
<https://prolitteris.ch/nutzer-tarife/>

Ask for permission through a bilateral license to use

The following information should be clearly specified (when known):

- Details about the image needed (title, first issue, author, source,...)
- Will the publication be printed or online? How many times (ca.) will the image be reproduced?
- What is the purpose of use? (e.g. academic publication?)
- Where will the image be reproduced? (in Switzerland only or worldwide (= open access)?)
- For how long will the image be published? (only for this edition? For future editions as well?)
- Will you make modifications or adaptations to the image?

HOW TO ASK FOR PERMISSION?

1.



Exceptions permitted by law

2.



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Bilateral license

3.



vectorial.com

Predefined license

The image already has a license to use

- E.g. Creative Commons licenses
- The license is valid for any person who is willing to use the work
- Check the license terms!

Remarks

- If you publish your work, including the quoted image, only in Switzerland and the quotation conditions are fulfilled, you do not need any further permission from the rights holder.
- If you publish your work, including the quoted image, as open access, you need the rights holder's permission.
- If you apply a Creative Commons license to your work, that license does not cover the quoted image!

Data Protection

When do I need to consider data protection?

WHEN DO I NEED TO CONSIDER DATA PROTECTION?



<https://pixabay.com/images/id-6615901/>



<https://pixabay.com/images/id-7356705/>



<https://pixabay.com/images/id-7112557/>

An image of a politician?
An image of Einstein?

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WHEN DO I NEED TO CONSIDER DATA PROTECTION?



<https://pixabay.com/images/id-6129239/>



<https://pixabay.com/images/id-5571759/>

Personal data

A person is **identified** or **identifiable**

Sensitive data:

- religious, ideological, political or trade union-related views or activities,
- health, the intimate sphere or the racial origin,
- social security measures,
- administrative or criminal proceedings and sanctions

Sensitive personal data

Rod Library-University of Northern Iowa, USA,
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[Mpunnasseri](#), CC BY-SA 3.0



[Alwynloh](#), CC BY-SA 4.0 International



[H. Grobe](#), CC BY-SA 3.0

WHEN DO I NEED TO CONSIDER DATA PROTECTION?



Bildquelle: <https://thispersondoesnotexist.com/>

- Name
- Address
- Place of residence
- Age
- Interesses
- Religion
- Sexuality
- Gender
- Appearance: height, skin colour, ect.
- AVS-Number
- ...

Processing personal data

= **any** operation with personal data, irrespective of the means applied and the procedure, and in particular the collection, storage, use, revision, disclosure, archiving or destruction of data.

→ **Informed consent**

→ Permitted by **law**

→ **Private** or **public interest** prevails (e.g. politician)

How to ask for consent?

How to inform about data processing

- No formal requirement, but "in an appropriate manner" (on a website? correspondence?)
You must be able to provide proof!
- At least the following information:
 - The **identity** of the data controller and the data processor;
 - The **purpose** of the data processing;
 - **What data** are necessary;
 - The categories of data **recipients** (Art. 9 FDPA, e.g. cloud), and any data **transfer**;
 - When will the processed data be **deleted** (exact term is necessary).

When is explicit consent required by law?

According to the Swiss Federal Data Protection Act:

- When sharing **sensitive data**

→ With images capturing identifiable people it's usually always the case.

When are data fully anonymized?

Anonymization

2. «Blick» verstieß im Weiteren auch gegen Ziffer 7 der «Erklärung». Der Beschwerdeführer hatte, obwohl er verurteilt wurde, Anspruch auf Schutz seiner Persönlichkeit. Wie er jedoch zu Recht betont, bleiben auf dem veröffentlichten Portrait seine Haare und sein Lächeln trotz partieller Gesichtsabdeckung gut erkennbar, insbesondere in Kombination mit den oben genannten Angaben. Er konnte daher über sein familiäres, soziales oder berufliches Umfeld hinaus identifiziert werden. Der Presserat hat bereits früher auf die Risiken einer Identifizierung bei Veröffentlichung von Porträts, welche eher pro forma verpixelt oder mit einem schwarzen Balken versehen

Stellungnahme des Schweizer Presserats 65/2019 vom 29 November 2019

Anonymization

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Stellungnahme des Schweizer Presserats 65/2019 vom 29 November 2019

Case Study

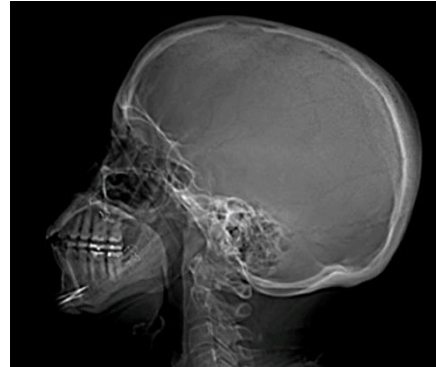
Case study

- Copyright issues?
- Data protection issues?
- Creative Commons license on personal data?



Aaron Filler, MD, PhD, CC BY-SA 3.0

Case study



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https://en.wikipedia.org/wiki/File:Skull_X-ray_-_lateral_view.jpg

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More information @ www.ccdigitallaw.ch

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The screenshot shows the homepage of CCdigitallaw.ch. At the top is a dark navigation bar with the logo on the left, a language selector set to 'English' on the right, and a menu with items: 'FAQs', 'Knowledge base', 'Training', 'Advising', 'About', and 'News Archive'. Below the navigation bar is a search bar with a magnifying glass icon and the text 'Search'. A welcome message follows: 'Welcome to the Competence Center in Digital Law. We support Swiss Higher Education Institutions (students, academic and administrative staff) in dealing with legal questions related to the digitalization process and the use of new media and technologies.' Below this is a section for 'DMLawTool' with a brief description and a button labeled 'DMLawTool'. The 'Showcases' section features four images: a desk with a laptop and books, a hand interacting with colorful icons, a computer screen displaying code, and the Creative Commons logo with a 'Chat' button.



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