Data Licensing

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Data licensing

A license is a *business tool* in its essence *economic.*

Before defining a license you should carefully understand:

- **Who** owns the data?
  → you, your lab, joint ownership, in-licensing...

- **What** you want to share?
  → raw data, full data, curated data, ...

- **Where** you want to share?
  → journal, lab repo, github, zenodo...

- **When** you want to share?
  → after publication, on request, time ban...

- **Why** are you sharing?
  → obliged, strongly encouraged, on voluntary...
## Legal Aspects Of Managing Data

| Level 6 – Information management and Security | Policies and processes  
|                                             | Security standards |
| Level 5 – Data regulation                  | Data protections, competition law  
|                                             | Business sectors |
| Level 4 – Contracting for data             | Contract is king  
|                                             | Strong protection but at personam |
| Level 3 – IP rights                        | Database rights, Copyright, Confidentiality, Patents, Trademarks  
|                                             | Extensive protection but uncertain for data |
| Level 2 – Information architecture         | Data structures, schemas, formats  
|                                             | Data flows, relationships |
| Level 1 – Platform infrastructure          | Operating systems, application software, etc..  
|                                             | Storage, processing, connectivity |

- Right “at personam”
- As a right “in rem”
Database rights – Mostly in Europe, “sui generis database rights”, Efforts vested in the creation
Copyright – Worldwide (TRIPS*) – Creativity/Originality
Confidential data / Trade secrets – Worldwide (TRIPS) – Unfair competition (no IP) – Confidential, Economic Value, Efforts to keep secret
Trademark - Worldwide (TRIPS) – “Recognizable sign, design, or expression which identifies products or services”

All these rights are subject to National Laws for their applicability and interpretation

*https://www.wto.org/english/docs_e/legal_e/27-trips_01_e.htm
Contracts on data – in personam

Whatever or not IP rights are applicable to data it is always possible to impose obligations and confer rights relating to data via a contract.

Example:
- Scope of the license
- Ownership
- Acknowledgment in use
- Fees
- Rules on the data usage
- Derived data
- Post term use
- ...

Licensing Data In Academia

Standard Licenses
- Creative commons
  - CC-BY-SA-NC-ND
  - CC0
- Open Data commons
- ...

Specific Licenses
- Commercial licensing
  - EULA
  - Development
- Academic use only

**Pro**: easy to apply, known by the community

**Cons**: difficult to enforce, do not protect raw data

**Pro**: better protection on all levels

**Cons**: negotiation, difficult to be reused

**Multiple licensing is always possible on data**
Data vs Software License Applicability

Data and Software licenses are inherently different by nature

<table>
<thead>
<tr>
<th>Data Licenses</th>
<th>Software Licenses</th>
</tr>
</thead>
<tbody>
<tr>
<td>(e.g. CC-BY, ODC....)</td>
<td>(e.g. MIT, Apache, GPL...)</td>
</tr>
<tr>
<td>- Data collections and databases</td>
<td>- Source code and executables</td>
</tr>
<tr>
<td>- Use, extract, derivate, distribute, ...</td>
<td>- use, copy, modify, merge, publish, distribute, sublicense, and/or sell...</td>
</tr>
<tr>
<td>- Copyright(WW) and database rights (EU)</td>
<td>- Copyright (WW) and Patents (WW)</td>
</tr>
</tbody>
</table>

**Pro**: data reuse rules

**Cons**: country dependent legal framework

**Pro**: protection at creation, mature legal framework

**Cons**: data are not covered

Data licenses shall not be used for software and vice-versa