

International Commons

Christiane Asschenfeldt

iCommons Launch Italy, 16 December 2004



Agenda

Objectives

Internationalizing the Licenses

Phase I: Legal Porting

Phase II: Community Building



Agenda

Objectives

Internationalizing the Licenses

Phase I: Legal Porting

Phase II: Community Building



Creative Commons: making digital content more widely available

- CC addresses legal problems in the area of global copyright law
- to establish a viable middle ground between stringent copyright controls and the completely unfettered use of content in the digital age
- to complement the existing copyright system



Creative Commons: pursuing a viable middle ground in copyright law

- providing a set of user-friendly online licenses combined with a sophisticated search technology
- authors, musicians and other creators can use these licenses to protect some of their ownership rights, while giving others away
- the result is a new global standard or layer of copyright law promoting the dissemination of digital content and the free exchange of ideas



Three Expressions:

Human-Readable: Commons Deed

Lawyer-Readable: Legal Code

Machine-Readable: Metadata

Logo + Link 



Licenses:



Attribution



No Commercial Use



No Derivative Works



Share Alike

Agenda

Objectives

Internationalizing the Licenses

Phase I: Legal Porting

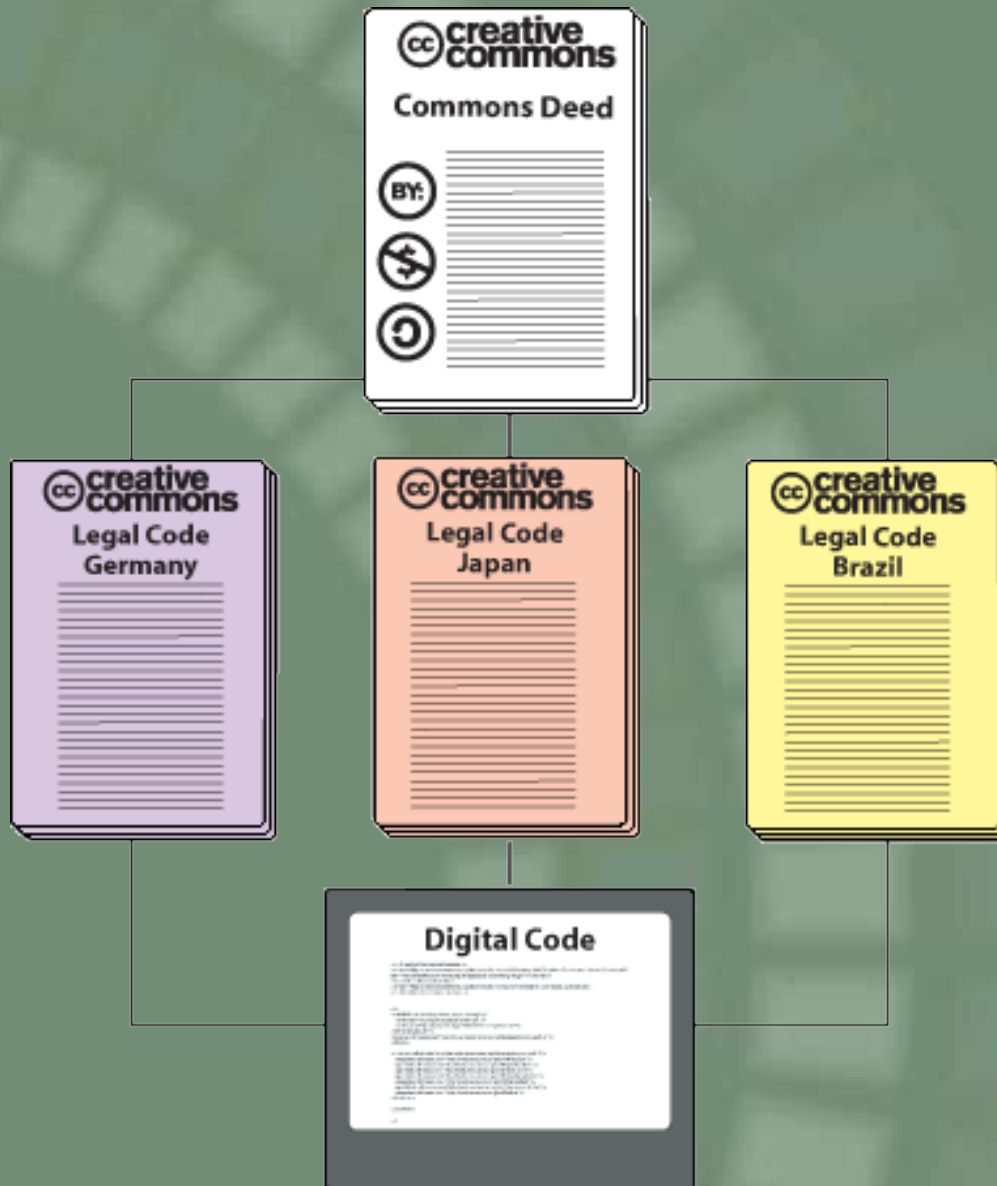
Phase II Community Building



Why CC would want to internationalize the licences

- The Creative Commons project is global in scope: seeking to reform intellectual property law in all major jurisdictions
- The project's success ultimately depends (i) on acceptance and use of the licenses by consumers / end-users in many different localities and (ii) on the licenses's enforceability in the courts
- Hence, the licenses must be transposed into different jurisdictions and languages.





Phase 1: Porting Process

- Affiliate Institution
- Project Lead
- MOU
- Draft
- Public Discussion
- Second Draft
- Launch Celebration



Why is it legally necessary to offer international versions of the licences?

(I) Copyright

- Principle of Territoriality in Copyright Law
- Moral Rights

Australia, Canada and UK: can waive moral rights

France, Belgium, Germany cannot waive moral rights

- Collecting Societies



Why is it legally necessary to offer international versions of the licenses?

(II) Contract Law/Consumer Protection Laws

- License or License Agreement?
- The problem of language
- According to the case law of the German BGH, standard terms and conditions for consumer contracts (AGBs) have to be phrased in German
- European Directive on unfair terms in consumer contracts



Why is it legally necessary to offer international versions of the licenses?

(III) Contract Law/Consumer Protection Laws

- The problem of liabilities and warranties
- Global disclaimers exempting licensor from any warranty or liability (eg sec. 5 and 6 CC) whatsoever are considered invalid under German law
- This is the case for both consumer contracts (AGBs) and non-consumer contracts (eg cases of grave negligence)
- Mandatory provisions of national Code



Interoperability of the national licenses:

Drafting an PIL Clause

- A dual licensing system: the respective national versions and one generic version (in English)
- A dynamic clause - the courts will use the Creative Commons Public License applicable on the territory of their jurisdiction
- The applicable contractual law shall be the same (national) law as the applicable copyright law



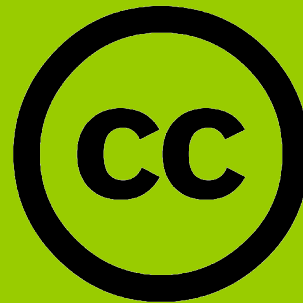
Interoperability of the national licenses:

Drafting an PIL Clause

Expressed in legal code (draft):

5. Whenever you copy or distribute the Work or make the Work available on German territory this License shall apply. This License is governed by German law.
2. Whenever you copy or distribute the Work or make the Work available outside German territory, the CCPL version of that territory shall apply.

Whenever you copy or distribute the Work or make the Work available outside German territory, and there is no CCPL version specific to that territory, the applicable CCPL shall be the generic CCPL version.



Creative Commons licenses available in twelve jurisdictions

- The original licenses were drafted under US-law and in English
- Local legal versions today exist for Italy, France, Canada, Belgium, Japan, Brazil, Finland, Holland, Germany, Taiwan, Austria and Spain
- Twelve Countries are currently discussing drafts of the CC license in their countries
- CC is collaborating with local project leads (ie mostly academic institutions) in over 70 countries
- Next countries to launch are the UK, Croatia and Australia in January 2005



Agenda

Objectives

Internationalizing the Licenses

Phase I: Legal Porting

Phase II: Community Building



Phase II: Community Building

- Affiliate Institution
- Country Administrator
- Advisory Board
- Collaboration with: Broadcasting Services, Universities, Schools, Collecting Societies, Artists Associations, Government
- Fundraising
- Awareness Raising
- Website/FAQ's



**Congratulations to Professor Marco Ricolfi,
Marco Ciurcina, Juan Carlos De Martin and the
team of iCommons Italy!**



Getting in touch with us

Creative Commons International

Gipsstrasse 12

D-10119 Berlin

Tel. (49)-30-28093909

Germany

Christiane Asschenfeldt: tel. (49) 163 776 4828; christiane@creativecommons.org

Roland Honekamp: tel. (49) 177 444 5070; roland@creativecommons.org

