



Creative Commons statement on the public domain at WIPO CDIP8 (Geneva, November 18, 2011)

As we made clear in our [general statement](#) at the start of this session, Creative Commons considers that this study is of vital importance to the international copyright framework. As it is clear from the content of the report, there is great disparity in the application of the public domain across jurisdictions. We are specifically troubled by the legal void in several jurisdictions with regards to public domain dedications. This is why we have created a tool called CC0, which allows authors to renounce all of their rights unilaterally if they wish to do so. This is available as part of our licensing suite, and is translated in several languages. We also share the concern with regards to orphan works.

Therefore, we would urge the CDIP to consider all recommendations carefully, but we specially urge the Committee to take all necessary steps to implement recommendations 1 c), e) and g).

The recommendations are:

1 (c) The voluntary relinquishment of copyright in works and dedication to the public domain should be recognised as a legitimate exercise of authorship and copyright exclusivity, to the extent permitted by national laws (possibly excluding any abandonment of moral rights) and upon the condition of a formally expressed, informed and free consent of the author. Further research could certainly be carried out on that point.

1 (e) The issue of orphan works should be dealt with at the international level or at least, a mutual recognition of the status of the orphan work applied in one country should be recognized by other Parties to the Berne Convention (except when identification or location of the author can be solved in this other country). WIPO should also help to set up networks of information about works in order to facilitate the identification of authors of orphan works. This would clarify the protected or unprotected status of orphan works.

1 (g) The 1996 WIPO Treaties could be modified to integrate, in the definition of "Rights Management Information", any electronic information pertaining to public domain works.