

[Almost]
Welcome to the 4.0 Licenses

CC Legal
Global Summit
22 August 2013

The plan.

- Status; schedule.
- The 4.0 elevator pitch.
- State of the legal code.
 - Δ 4.0d3
 - clarity about licensing adaptations
- Beyond the legal code.
 - combining the deed and code?
 - language translations



Status; schedule

1. Finalizing the legal code
2. Deed is ready
3. Chooser is ready
4. Educational materials in progress

The elevator pitch.

The major benefits of Version 4.0.

Internationalization

- Unprecedented consultation with affiliates around the world during 2-year drafting process
- Terminology more suitable for international use
- Analyzed and addressed countless jurisdiction-specific legal issues
- Introducing official language translations

Rights outside ©

- Sui generis database rights within license scope and subject to license conditions (*cf.* 3.0)
- Open-ended but carefully tailored definition of rights being licensed
- Uniform treatment of moral rights designed to work everywhere (*cf.* 3.0)
- Express treatment of publicity/privacy/personality rights

User-friendly

Form

- Easier to understand than prior versions
 - Simplified structure
 - More clarity about how license operates

Function

- Better reflects common practice in key ways
 - Attribution is simpler and more flexible
 - Cure period

State of the legal code.

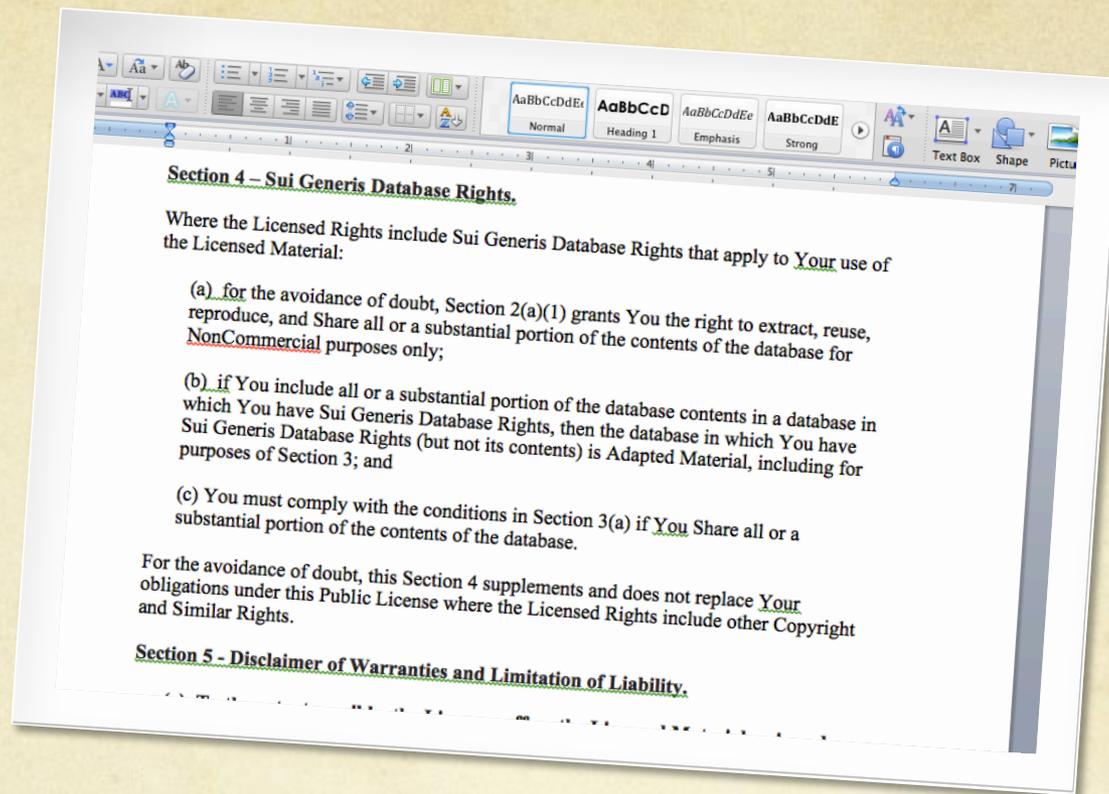
Overview of changes since 4.0d3

License grant

Section 2(a): “Subject to the terms and conditions of this Public License, the Licensor hereby grants You a worldwide, royalty-free, non-sublicensable, non-exclusive, irrevocable license to exercise the Licensed Rights in the Licensed Material to:

- (A) reproduce and Share the Licensed Material for NonCommercial purposes only, and
- (B) produce, reproduce, and Share Adapted Material for NonCommercial purposes only.”

- no longer completely open-ended; now narrowed to ensure proper scope
- still grants license to exercise all Copyright and Similar Rights to reproduce and Share
 - Copyright and Similar Rights definition open-ended
 - Share definition open-ended [note: some slight edits to language]



Sui generis database rights

- (1) combined into one section for clarity and to avoid over-compliance
- (2) minor language changes, including grant
- (3) more clear that obligations sit atop (and do not replace) others

Effective Technological Measures

“Effective Technological Measures means those measures that, in the absence of proper authority, may not be circumvented under laws fulfilling obligations under Article 11 of the WIPO Copyright Treaty adopted on December 20, 1996, or similar international agreements.”

Section 2(a)(5): “You may not offer or impose any additional or different terms or conditions on, or apply any Effective Technological Measures to, the Licensed Material or Adapted Material that restrict exercise of the Licensed Rights by any such recipient.”

- added definition of ETMs
- not intended to change meaning from prior versions
- goal = to add clarity
[note: will need affiliate help to educate users]

Circumvention provision

Section 2(a)(4): “The Licensor waives and/or agrees not to assert any right or authority to forbid You from making technical modifications necessary to exercise the Licensed Rights, including technical modifications necessary to circumvent Effective Technological Measures.”

- uses ETM definition
- broadened to avoid any argument that licensor would ever prohibit circumvention to access the licensed material

Removed interpretation clause

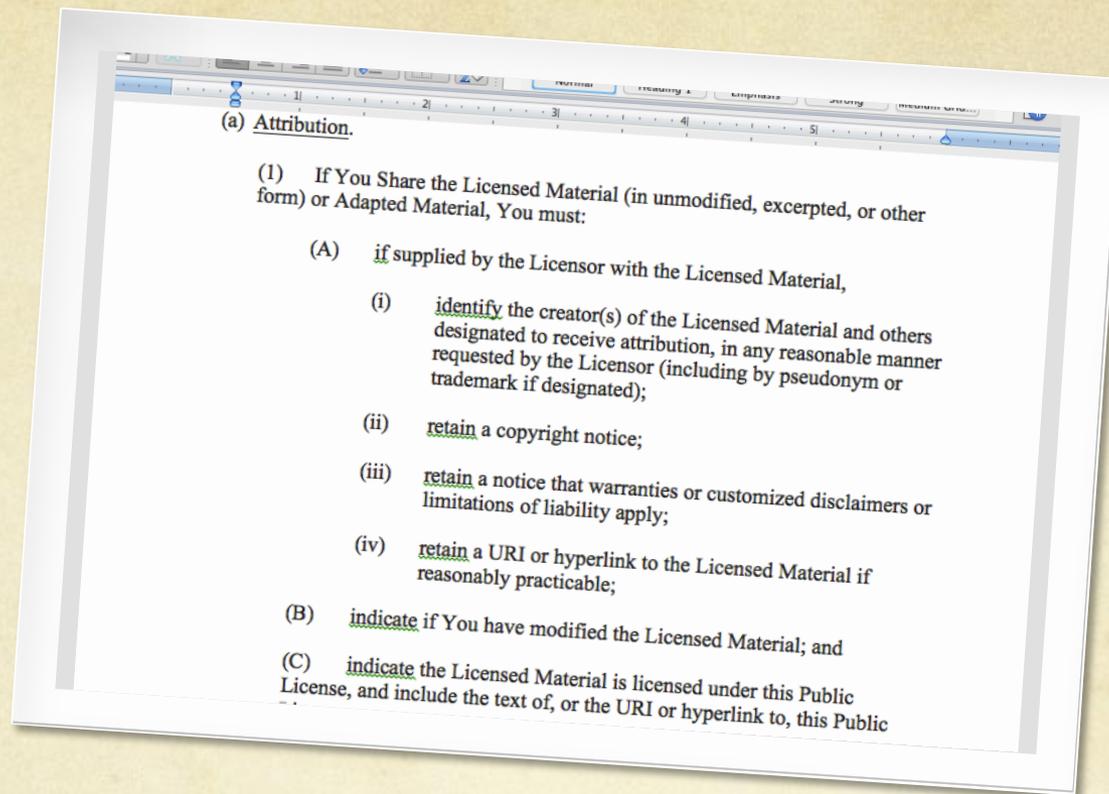
~~“Interpretation of this Public License shall be made with reference to Copyright and Similar Rights in effect where You use the Licensed Material unless applicable international law provides otherwise.”~~

- not very helpful to most non-lawyers
- “unless applicable international law” made the clause purely informational
- could cause more problems than it solves

Customizing the license

Section 7(b): “The Licensor may provide warranties or disclaim or limit liabilities differently from Section 5, in which case such modifications form part of this Public License.”

- customizing disclaimer and limit on liability was major reason for porting
- now customizations can be done using international 4.0 license
- licensor can still waive conditions or offer extra permissions, but not part of CC license



Attribution

- 1) simplified formatting
- 2) author/attribution parties only if supplied
- 3) link to licensed material always required

ShareAlike

Section 3(b): “In addition to the conditions in Section 3(a) above, if You produce and Share Adapted Material, the following conditions also apply.

(1) Your Adapter’s License must be a Creative Commons license, this version or later, with the same License Elements, or a BY-NC-SA Compatible License. For the avoidance of doubt, this Public License continues to apply to the Licensor’s Copyright and Similar Rights in Adapted Material as provided in Section 2(a)(5).”

- made clear it only applies to adapters, not anyone using someone else’s adaptation
- change in terminology from Adaptation License to Adapter’s License
- examining whether to make downstream reuse of SA adaptations easier

Licensing adaptations

Clarity; tricky issues; open question

Using Creative Commons Licenses

Creative Commons public licenses provide a standard set of terms and conditions that creators and other rights holders may use to share original work and materials subject to copyright and certain other rights. The following considerations are for informational purposes only and are not exhaustive, and do not form part of our licenses.

Considerations for licensors: Our public licenses are intended to give the public permission to use material that is otherwise restricted by copyright and certain other rights. These licenses are not a substitute for legal advice. Licensors should read and understand the terms and conditions of the license they choose before applying it. Licensors should also secure legal advice before applying our licenses, to enable reuse of the material in their own work. Licensors should clearly mark any material they license with a Creative Commons license.

Before licensing

improving usability with readable explanations

Things we know

- Licensors and licensees both need to be careful about things that are not immediately obvious
- Warranties have major drawbacks--and possibly not even effective
- What to do within the license that will be useful?
Should be effective but not overpromise
- CC can improve usability by pointing out important considerations for all parties

Points included

- Recommendations for clearing rights
- Educating users about limits of the license
 - Limitations and exceptions
 - Unlicensed third-party material
 - Unlicensed rights in licensor's own material
- Marking material not subject to license
- Respecting non-required requests
- Irrevocability of license

Clarity around licensing adaptations

- ShareAlike and non-ShareAlike

BY and BY-NC

- The basic idea: you can make derivatives under any license you want
 - Really, almost any license, or even public domain
 - ...but you may not want to.
- Must always comply with terms of original license: two licenses apply to the adaptation (“license stacking”)

BY-SA

- The basic idea: you can only make derivatives under a license that is “alike”
 - ...for some (slightly changed) definition of “alike”...
 - ...that we will still be working on after launch.
- Like non-SA, two licenses apply to the adaptation... but what does that mean?
 - Little actual conflict so far, but has allowed lack of clarity and needs resolution
 - Come to the unconference session and discuss

Beyond the legal code.

Other implementation matters

The deed and legal code: meant to be
together?

Time for a change?

- Currently separate: “human-readable” and “lawyer-readable”
 - Lawyers are people too... sort of.
 - More importantly, the legal code shouldn't just be for lawyers
- Proposal to integrate deed and legal code on same page
 - Technical challenges

Translations: as equivalent as possible?

Translations

- CC0 policy: official translations, English controls
- No CC0 translations published yet so change possible: want same policy in CC0 and 4.0
- Initial thought: treating as equivalents...
 - but don't want to create new problems in addressing old ones
- Considerations: licensor and licensee language, usability, internationalization
- License is silent

Your input -

- (1) Unconference about SA
- (2) Brainstorm adoption/education tools

Thanks!



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