

e-ScienceTalk

COPYRIGHT AND ISGTW

EU REPORT

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Abstract

This report summarises the issues surrounding copyright and creative commons affecting iSGTW.

I. COPYRIGHT NOTICE

Copyright © Members of the e-ScienceTalk collaboration, 2010. See www.e-sciencetalk.eu for details of the e-ScienceTalk project and the collaboration. E-ScienceTalk is a project co-funded by the European Commission as an Support Action within the 7th Framework Programme. E-ScienceTalk began in September 2010 and will run for 33 months. This work is licensed under the Creative Commons Attribution-Noncommercial 3.0 License. To view a copy of this license, visit <http://creativecommons.org/licenses/by-nc/3.0/> or send a letter to Creative Commons, 171 Second Street, Suite 300, San Francisco, California, 94105, and USA. The work must be attributed by attaching the following reference to the copied elements: “Copyright © Members of the e-ScienceTalk Collaboration, 2010. See www.e-sciencetalk.eu for details of the e-ScienceTalk project and the collaboration”. Using this document in a way and/or for purposes not foreseen in the license, requires the prior written permission of the copyright holders. The information contained in this document represents the views of the copyright holders as of the date such views are published.

II. DELIVERY SLIP

	Name	Partner/Activity	Date
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III. DOCUMENT LOG

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1	20/6/2011	First draft	Catherine Gater/EGI.eu
2			
3			

IV. APPLICATION AREA

This document is a formal deliverable for the European Commission, applicable to all members of the e-ScienceTalk project and its beneficiaries and collaborating projects.

V. DOCUMENT AMENDMENT PROCEDURE

Amendments, comments and suggestions should be sent to the authors.

VI. PROJECT SUMMARY

Over the last 10 years, the European Commission and governments have invested substantial funds in distributed computing infrastructures. Scientists have access to state-of-the-art computational and data resources located around the world, putting European research into a leading position to address the greatest challenges facing us today, such as climate change, pandemics and sustainable energy. The advent of the European Grid Infrastructure, combined with the blurring of boundaries between grids, clouds, supercomputing networks and volunteer grids, means that a clear consistent source of information aimed at non-experts is now more important than ever, through dissemination projects such as e-ScienceTalk, that cross national boundaries.

Objectives:

- e-ScienceTalk will build on the achievements of the GridTalk project in bringing the success stories of Europe's e-Infrastructure to policy makers in government and business, to the scientific community and to the general public.
- e-ScienceTalk will work with EGI-InSPIRE and other collaborating projects to expand the scope of the existing GridTalk outputs, and to report on the interactions of grids with e-Infrastructures such as cloud computing and supercomputing.
- The project will explore options for the sustainability of e-ScienceTalk's products.
- e-ScienceTalk will produce a series of reports aimed at policy makers to disseminate key policy issues underpinning grid and e-Infrastructure development in Europe. The project will also coordinate e-concertation activities.
- The GridCafé, GridCast and GridGuide suite of websites will cover new topics and explore novel web technologies; they will integrate closely with GridPP's Real Time Monitor, combining live views of grid activity with the human aspects of computing.
- The growing weekly publication, International Science Grid This Week (iSGTW) will bring news and events to the existing and potential e-Science.

VII. EXECUTIVE SUMMARY

This document explores potential copyright issues affecting iSGTW and makes recommendations for the project.

This document outlines:

- What types of content are published that could be subject to copyright issues eg text, images, graphics, video, websites.
- The source of the different types of content.
- The current status of copyright notices and disclaimers.

A brief summary of current European copyright law is also included as well as an outline of the Creative Commons licenses available. Under copyright law, content is protected “all rights reserved” for the lifetime of the author and for 70 years after their death. Creative Commons licenses can be combined and applied to allow authors to modify this default position to “some rights reserved” on a global basis.

This document recommends exploring establishing Creative Commons licenses for the content produced by the iSGTW team, applying combinations of licenses as applicable. The rights of contributors beyond iSGTW should also continue to be protected. Also recommended is to add consistent messages to the website giving clear credit to the producers of the content and also to include disclaimers covering reuse of the content. The site should include a short clarification of the copyright and Creative Commons licenses that apply, and a full invitation to re-use and distribute the content under these licenses.

An overview of the recommendations is also provided from a legal view point, as provided by Emily Tank, contributed while an intern at CERN. This overview provides suggested wording for copyright and attribution messages, and also clarifies the issues around the Creative Commons licenses.

The document also includes an overview of the trademarking process and search procedures according to the Madrid protocol and makes recommendations on trademarking current and future iSGTW products.

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1 INTRODUCTION

The first year EC reviewers of GridTalk provided the following recommendation:

“All materials produced by the project are intended to be disseminated and exploited as widely as possible. The reviewers encourage the project team to consider issues of copyright and necessary procedures to be put in place. The results could be summarized for inclusion in the final report.”

A position paper was produced during the GridTalk project in response to this recommendation. This paper follows up on those recommendations, and makes proposals for implementation in the first year of e-ScienceTalk for iSGTW.

2 CURRENT COPYRIGHT

This document examines copyright issues affecting iSGTW and what measures are currently being taken to protect the copyright of its content.

2.1 iSGTW

Content for iSGTW is provided by the European and US editors and by a network of external contributors. The European Editor is based at CERN and the US editor at Fermilab. Articles included in the publication that are not contributed by the editors are fully credited with the author's name and affiliation as appropriate. In addition to articles, links of the week, announcements and images of the week, the site also contains resources such as technology primers, posters and slides, press releases and the e-ScienceBriefings. These are either produced by the editors or the other e-ScienceTalk team members. iSGTW content is covered by both European and US copyright law.

The iSGTW website features the following copyright notice and disclaimer:

Copyright and reprints

You are welcome to reprint stories from iSGTW under the condition that you acknowledge iSGTW and appropriately attribute the author. We also encourage you to link to the iSGTW Web site.

Disclaimer:

While iSGTW does its best to provide complete and up-to-date information, it does not warrant that the information is error-free and disclaims all liability with respect to results from the use of the information.

2.2 Twitter

iSGTW publishes content on a Twitter feed, advertising events, blogs and links. Content published through the Twitter site is covered by the Twitter Terms of Service¹. The section relating specifically to content includes the following:

Content on the Services

All Content, whether publicly posted or privately transmitted, is the sole responsibility of the person who originated such Content. We may not monitor or control the Content posted via the Services and, we cannot take responsibility for such Content. Any use or reliance on any Content or materials posted via the Services or obtained by you through the Services is at your own risk.

We do not endorse, support, represent or guarantee the completeness, truthfulness, accuracy, or reliability of any Content or communications posted via the Services or endorse any opinions expressed via the Services. You understand that by using the Services, you may be exposed to Content that might be offensive, harmful, inaccurate or otherwise inappropriate, or in some cases, postings that have been mislabeled or are otherwise deceptive. Under no circumstances will Twitter be liable in any way for any Content, including, but not limited to, any errors or omissions in any Content, or

¹ <http://twitter.com/tos>



any loss or damage of any kind incurred as a result of the use of any Content posted, emailed, transmitted or otherwise made available via the Services or broadcast elsewhere.

3 COPYRIGHT AND CREATIVE COMMONS

3.1 *European copyright law*

Copyright law in the European Union consists of a set of Directives, which member states are required to include in their national laws. Broadly, copyright protection is afforded to the author during his/her lifetime and for 70 years after the death of the author. However, copyright law in individual countries varies widely, particularly between "common law" jurisdictions eg Ireland and the UK and "civil law" countries.

The following rights are protected by European Union law²:

- right of reproduction for authors, performers, producers of phonograms and films and broadcasting organisations
- right of communication to the public for authors, performers, producers of phonograms and films and broadcasting organisations
- right of distribution for authors and for performers, producers of phonograms and films and broadcasting organisations
- right of fixation for performers and broadcasting organisations
- right of rental and/or lending for authors, performers, producers of phonograms and films with an associated right of equitable remuneration for lending and/or rental for authors and performers
- right of broadcasting for performers, producers of phonograms and broadcasting organisations
- right of communication to the public by satellite for authors, performers, producers of phonograms and broadcasting organisations
- The rights of reproduction, distribution and rental for authors of computer programs are specified in Art. 4, D. 91/250/EEC

Certain exceptions, or limitations, are permitted in various countries eg reproduction by educational institutions for non-commercial use, use for illustration for teaching or scientific research non-commercially, press reviews and news reporting.

During e-ScienceTalk, the content generated ie text, images, graphics, websites, videos and so on will all be covered by European copyright law, and will be owned by the authors until 70 years after their deaths.

3.2 *Creative Commons*

Creative Commons is a non-profit organisation that works to expand the body of work that is available to the public for free and legal sharing, repurposing and remixing. Creative Commons provides free legal tools to give institutions a standardised way to grant copyright permissions to their creative work. These Creative Commons licenses allow people to change their copyright terms from the default situation of "all rights reserved" to "some rights reserved."

² http://en.wikipedia.org/wiki/Copyright_law_of_the_European_Union

Creative Commons Licenses work alongside copyright, allowing authors and designers to modify copyright terms to suit their requirements. The licenses are applicable globally.

The available licenses include³:

Attribution - others can copy, distribute, display and perform copyrighted work and derivative works, but only if they credit the author the way the author has requested.

Share alike - others can only distribute derivative works under a license identical to the license that governs the work.

Non-commercial - Others may copy, distribute, display and perform work, and derivative works based on it, but only for non-commercial purposes.

No derivative works - Others may copy, distribute, display and perform only verbatim copies of work, not derivative works based on it.

These licenses can be combined to create the modifications to copyright that are required. For iSGTW, which aims to distribute its works as widely as possible, and to encourage reuse and exploitation of the content, Creative Commons could offer a way to tailor distribution and reuse rights for particular types of content for each product.

³ <http://creativecommons.org/about/licenses/>

4 RECOMMENDATIONS

4.1 Recommendations

A number of suggested recommendations were outlined for iSGTW in the GridTalk report.

1. Add a clear consistent copyright notice to the iSGTW website to indicate that the content is covered by copyright law.
2. Add a clearly worded disclaimer to the website limiting iSGTW's liability as a consequence of use or redistribution of the content.
3. Ensure that iSGTW credits the providers of the content appropriately so that the holders of the copyright for the different elements are clearly identifiable.
4. Develop a Creative Commons licensing strategy for iSGTW that is compatible with how the content is produced and who owns the copyright. These should also be compatible with any other third party terms of service that may apply eg for Twitter.
5. Ensure that iSGTW's content is widely distributed and easily available while ensuring that the rights of contributing authors beyond the iSGTW team are protected.
6. Include an invitation on the website to re-use, distribute and disseminate the content, according to the Creative Commons licenses applicable to each article, blog etc.

4.2 Legal advice on recommendations

The following legal advice was provided by Emily Tank, legal intern at CERN in August 2010 on these recommendations.

1. *Add a clear consistent copyright notice to the iSGTW website to indicate that the content is covered by Copyright law.*

Two possible copyright notices are:

Copyright 'date' by 'name' all rights reserved. This material may be freely copied and distributed subject to inclusion of this copyright notice and our World Wide Web URL <http://www.<organisation>.com>.

Or

Unlimited permission to copy or use is hereby granted subject to inclusion of this copyright notice. The present Terms and Conditions will be governed and interpreted exclusively by European Copyright law (and US copyright law).

2. *Add a clearly worded disclaimer to the website limiting iSGTW's liability as a consequence of use or redistribution of the content.*

Website disclaimer sample:

The information contained in this website is for general information purposes only. The information is provided by <organisation> and while we endeavour to keep the information up to date and correct, we make no representations or warranties of any kind, express or implied, about the completeness, accuracy, reliability, suitability or availability with respect to the website or the information, products, services, or related graphics contained on the website. Any reliance you place on such information is therefore strictly at your own risk.

In no event will <organisation> be liable for any loss or damage including, without limitation, indirect or consequential loss or damage, or any loss or damage whatsoever arising from loss of data or profits derived from, or in connection with, the use of this website.

Through this website you may be able to link to other websites which are not under <organisation> control. We have no control over the nature, content and availability of those sites. The inclusion of any link does not necessarily imply that <organisation> recommends or endorses the views expressed within them.

Every effort is made to keep the website up and running smoothly. However, <organisation> takes no responsibility for, and will not be liable for, the website being temporarily unavailable due to technical issues beyond our control.

3. *Ensure that iSGTW credits the providers of the content appropriately so that the holders of the copyright for the different elements are clearly identifiable.*

A few key requirements must be met at all times when using outside sources in a product's content. These can be categorised as text and visual elements. These would apply to iSGTW and any printed materials based on iSGTW.

With regards to text, in the case of articles which fall under another open source license such as Creative Commons, the license and its general terms should be set forth at the foot of the body of the article, with a link to its full terms in addition to a link to the source.

With regards to images/designs, whenever you upload an image, you should meet the following minimal requirements.

- Always check whether you can use the image. When in doubt, do not upload copyrighted images.
- Always specify on the description page where the image came from (the source) and information on how this could be verified. Examples include placing a URL, or a name/alias and method of contact for the photographer.

4. *Develop a Creative Commons licensing strategy iSGTW that is compatible with how the content is produced and who owns the copyright. These should also be compatible with any other third party terms of service that may apply, e.g. for Twitter.*

As a starting point, it is suggested that iSGTW content should be assigned, via copyright, to its specific owners, contributors and designers. The website should clearly recognise the copyright owner alongside its copyright notice. It is important to work retroactively so as to build on an already present copyright structure which would thereafter only require regular updates following additions. Once it has been established who owns what copyright, the next step would be to develop a Creative Commons strategy which is to be tailored to each product's requirements.

The Creative Commons licenses are listed in the previous section. In light of iSGTW's aim to promote as wide a distribution as possible, the Attribution license seems to be the most suited. This is the most accommodating of licenses offered, in terms of what others can do with the works licensed under Attribution. Another element would be to include the Share Alike requirement so as to apply an Attribution Share Alike license which is very similar to open source software licenses in nature. However, all new works based on iSGTW will carry the same license, so any derivatives will also allow commercial use. This raises a number of concerns in terms of what can be used and by whom, for commercial ends. Therefore it should be considered whether the addition of the Non Commercial element is desired in order to prevent commercial usages all together (Attribution Non Commercial Share Alike); or whether it should be left out, and a clear requirement added in the copyright.

The latter would require the following type of specification:

This website is copyright of <organisation>- © <organisation> [year]. All rights reserved.

Any redistribution or reproduction of parts or the full content of this website is prohibited other than the following:

- **you may print or download to a local hard disk extracts for your personal and non-commercial use only,**
- **you may copy the contents to individual third parties for their personal use, but only if you acknowledge the website as the source of the material. Any other uses not mentioned above are subject to approval of the copyright holder who must be contacted, consulted and has final authority.**

5. *Ensure that iSGTW content is widely distributed and easily available while ensuring that the rights of contributing authors beyond the iSGTW team are protected.*

A message similar to the statement below should be included on each channel that includes Third Party material.

Where it is stated that the copyright to any part of the Web Pages is held by a third party, requests for permission to copy, modify, translate, publish or otherwise make available such part must be addressed directly to the third party concerned.

6. *Include a consistently worded invitation on the website to re-use, distribute, and disseminate the content, according to the Creative Commons licenses applicable.*

A suggested wording would be:

This material may be freely reused, distributed and disseminated subject to the above copyright notice.

5 TRADEMARKING OF PRODUCT NAMES

In addition to the issue of protecting the copyright of the content and images on the iSGTW website, and any derived online and printed publications, it would also be useful to protect the name of the publication itself. This will prevent legal challenges to the names from other parties, and establish prior use. All new names considered should search for pre-existing similarly named products through web searches and the trademark organisations. Legal advice should be sought if there is contention regarding a particular name.

5.1 *The Madrid protocol*

The World Intellectual Property Organisation⁴ (WIPO) provides guides to copyright, trademarks and patents. It is also possible to estimate the fees payable to register a trademark using the WIPO simulator⁵ which can calculate the amount of fees due depending on the countries selected for protection, the type of mark (B&W, colour, logo...) and the number of classes. This applies to an application under the Madrid protocol. The Madrid System for the International Registration of Marks offers a trademark owner the possibility to have his trademark protected in several countries by simply filing one application directly with his own national or regional trademark office.

Using the Madrid Protocol, the applicant should file the international application (naming each individual country) at the same time as filing the Swiss application, although the applicant does not lose the right to file internationally if they do not do so. The US is party to the Madrid Protocol, so it is also possible to file for a US trademark without going to the United States Patent and Trademark Office (USPTO) – using the same form as for EU countries mentioned above.

5.2 *Trademark search*

A trademark search report⁶ can also be requested per mark that the applicant wishes to register. It is necessary to specify whether the search is for 'identical marks' only, or also 'similar marks', and on which registers it is to be done. Fees can range from a few hundred to thousands of Euros for several marks and for several registers.

5.3 *Recommendations*

A recommendation is to register product names in one country through the Madrid system. A pilot registration of iSGTW has been completed with the Swiss Trademark office through the CERN Intellectual Property department. iSGTW has been registered in June 2011 as a trademark in Switzerland in 3 classes, after successful searches were carried out in the US, UK, Benelux and France.

⁴ <http://www.wipo.int/portal/index.html.en>

⁵ http://www.wipo.int/madrid/en/madrid_simulator/

⁶ <https://www.ip-search.ch/en/trademark-searches/trademark-searches.html>

6 CONCLUSION

The recommendation is to implement each of the actions listed above, in agreement with the e-ScienceTalk PMB and the iSGTW Advisory Board. The actions are:

1. Add the suggested copyright notice to the iSGTW website.
2. Add the suggested disclaimer to the iSGTW websites.
3. Ensure that all images and text are credited appropriately and ensure images are available for use.
4. Add an Attribution Non Commercial Share Alike Creative Commons notice to the iSGTW website.
5. Add the suggested message about Third party copyright to iSGTW and printed materials.
6. Register any new names in at least one country through the Madrid trademark system.