

# Authors' Rights: Use the Law, Share Your Scholarship, Change the World

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Presented at Univ. of Richmond  
9/27/17

# Roadmap

- Copyright Basics
- Copyright provisions in a publishing agreement
- Things to think about
- Reclaiming Rights
- Changing the world
- Resources

# Copyright Basics

- Automagical - no more “formalities” (notice, registration); just “fixation in a tangible medium”
- Ownership vests initially in author(s) - note the unusual status of scholarship vis-a-vis work for hire rules.
- “Bundle” of rights: divisible, licensable, transferrable
- Term of protection: Life of the author+70 years

# Common © Provisions in Author Agreements

- Transfer or License to the publisher
  - Transfer vs. license - does it matter? Look to bottom line: who can do what.
- Inclusion of 3rd-party material - three typical provisions:
  - Author affirms there is no 3rd party material in the work
  - Author affirms she has permission to use all 3rd party material
  - Author affirms all 3rd party material is included lawfully
- Author indemnity of journal

# Things to Think About

- Funder open access requirements (NIH, e.g.)
- Your own goals for the piece—P&T, engage your field, impact a public debate, support teaching, etc.
- What uses you'd like to make with the work after it's published
- What uses you'd like others to be able to make of the work after it's published

# Rights you might **reserve** for yourself

- Right to **deposit/publish** a **version** of the article:
  - in your institutional **repository** ([scholarship.richmond.edu](http://scholarship.richmond.edu))
  - in a **subject** archive/preprint server - e.g., arXiv, SSRN, Humanities Commons
  - on your personal **website**/departmental site
  - on a **social network** (e.g., [academia.edu](http://academia.edu))
- Right to **use** article in teaching, conference presentations, etc.
- Right to reuse/reprint portions of article in **future books, articles**
- Other ideas?

# Key resource: SHERPA RoMEO

- Massive archive of author agreements for major publishers
- Links to full text of agreements
- Categorizes publishers' default policies re author reuse
- Nomenclature:
  - “pre-print”
  - “post-print”
  - “publisher PDF”
- Notice/Citation Requirements



The screenshot shows the SHERPA/RoMEO search interface. At the top, there is a green header with the SHERPA/RoMEO logo and the text "Search - Publisher copyright policies & self-archiving". Below the header is a search form with the following fields:

- A search input field with the placeholder "Search for journal title or publisher name".
- Two radio buttons: "Journal titles or ISSNs" (selected) and "Publisher names".
- Four search operators: "Exact title" (selected), "starts with", "contains", and "ISSN".
- Links: "Advanced Search", "Search", and "Reset".

Below the search form, there is a note: "Use this site to find a summary of permissions that are not covered by the Creative Commons License". At the bottom, there is a link: "The RoMEO Journals database is supplemented with information kindly provided by:

- the British Library's [Zetoc](#) service hosted by MIMAS,
- the [Directory of Open Access Journals](#) (DOAJ) managed by Infrastructure
- the [Entrez](#) journal list hosted by the NCBI.

"

# Flavors of Open, and a note about “predatory publishers”

- Open Access in two flavors:
  - Green: author publishes in traditional journal, but archives a version of her article with an open license in an open repository
  - Gold: article is published by the journal with an open license
- Funding OA: Institutional memberships, author processing charges
- “Predatory” publishers

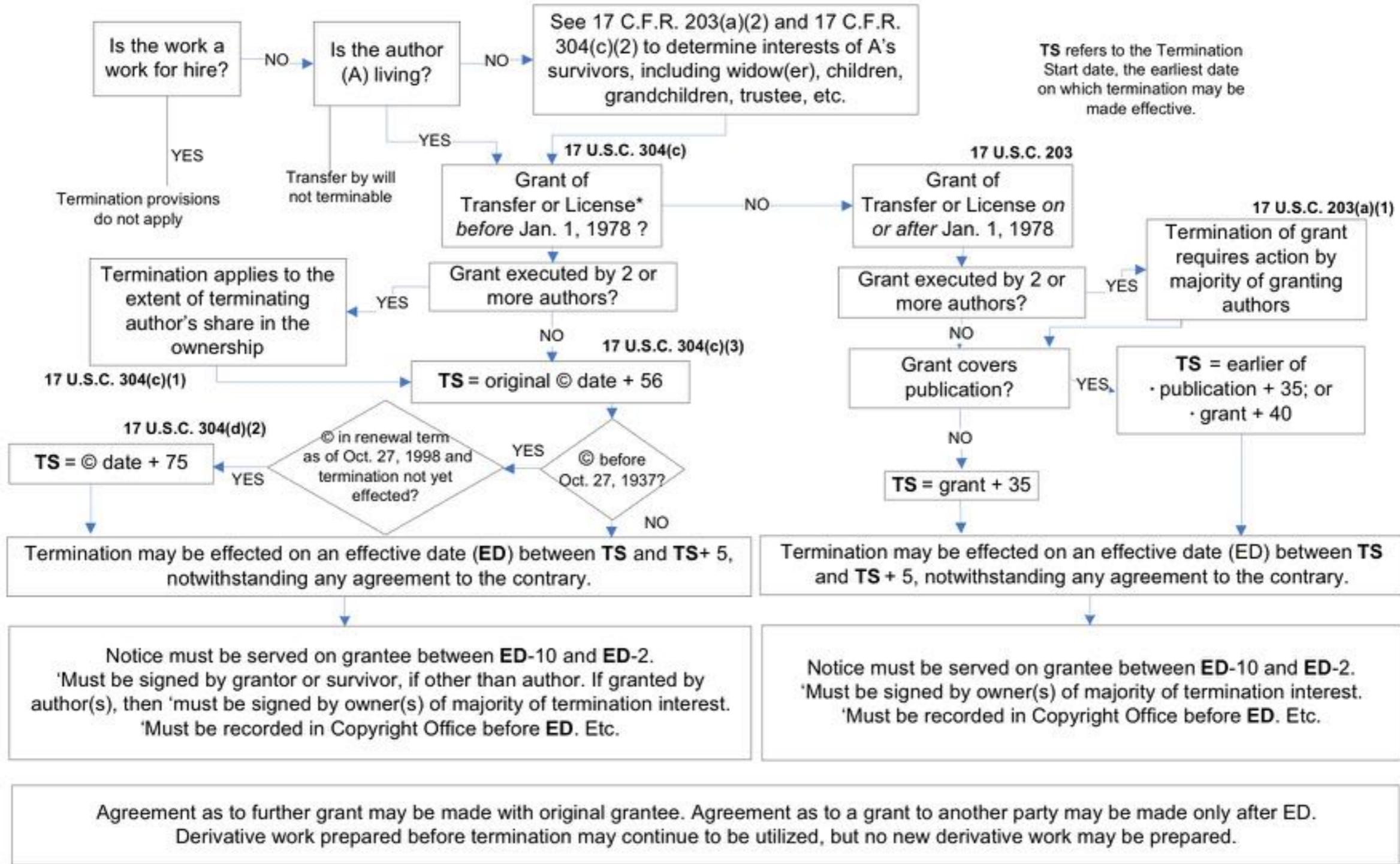
# Reclaiming Rights

- Older works (often out of print) may be reclaimed by an author or heirs
- Three ways:
  - Statutory Termination of Transfer - Complex!
  - Contractual reversion - Authors Alliance Guide
  - Informal negotiation w/ publisher - Same
- Why? Typically to re-publish online, free, and often open access...

# TERMINATION OF A GRANT OF A COPYRIGHT TRANSFER OR LICENSE

17 U.S.C. §§ 203, 304  
37 CFR § 201.10

A transfer (other than by will) or license of a copyright interest may be terminated, notwithstanding any agreement to the contrary. Termination requires notice to the grantee during a very specific window of time.



# Changing the World

- Use open licenses - CreativeCommons.org
  - Open Access - lowering price barriers to scholarship
  - Open Educational Resources (OER) - promote affordability, innovation in teaching
  - Open Data/Open Science/Open Workflows - for reproducibility, transparency, collaboration
- Use fair use - American University Best Practices

# Resources

- Authors Alliance - <http://www.authorsalliance.org>
  - Guides to Open Access, Rights Reversion, and more
  - By and for academic authors
- Authors Guild - <https://www.authorsguild.org>
  - For book deals, agents, etc.
- Termination flow chart: [https://www.sunsteinlaw.com/media/2012\\_01%20Copyright\\_Chart.pdf](https://www.sunsteinlaw.com/media/2012_01%20Copyright_Chart.pdf)
- “Principles of the JCEL Publication Agreement” - <https://journals.ku.edu/index.php/jcel/article/view/5913>
  - Thoughtful breakdown of a modern publishing agreement written with authors' rights and public access as key goals

# Resources (cont'd)

- SPARC - <https://sparcopen.org>
  - All things Open - OA, OER, Open Data
  - SPARC Author's Addendum for journal contracts
- Center for Open Science - <http://cos.io>
  - Open workflows, open data, pre-print repositories
- Center for Media and Social Impact - <http://cmsimpact.org/codes-of-best-practices/>
  - Fair Use Best Practices and Supporting Materials

# Any questions?

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