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Facilitate Open Science Training for European Research



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# COPYRIGHT AND RE-USE OF RESEARCH PUBLICATIONS AND RESEARCH DATA

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Creative Commons Portugal Legal Lead

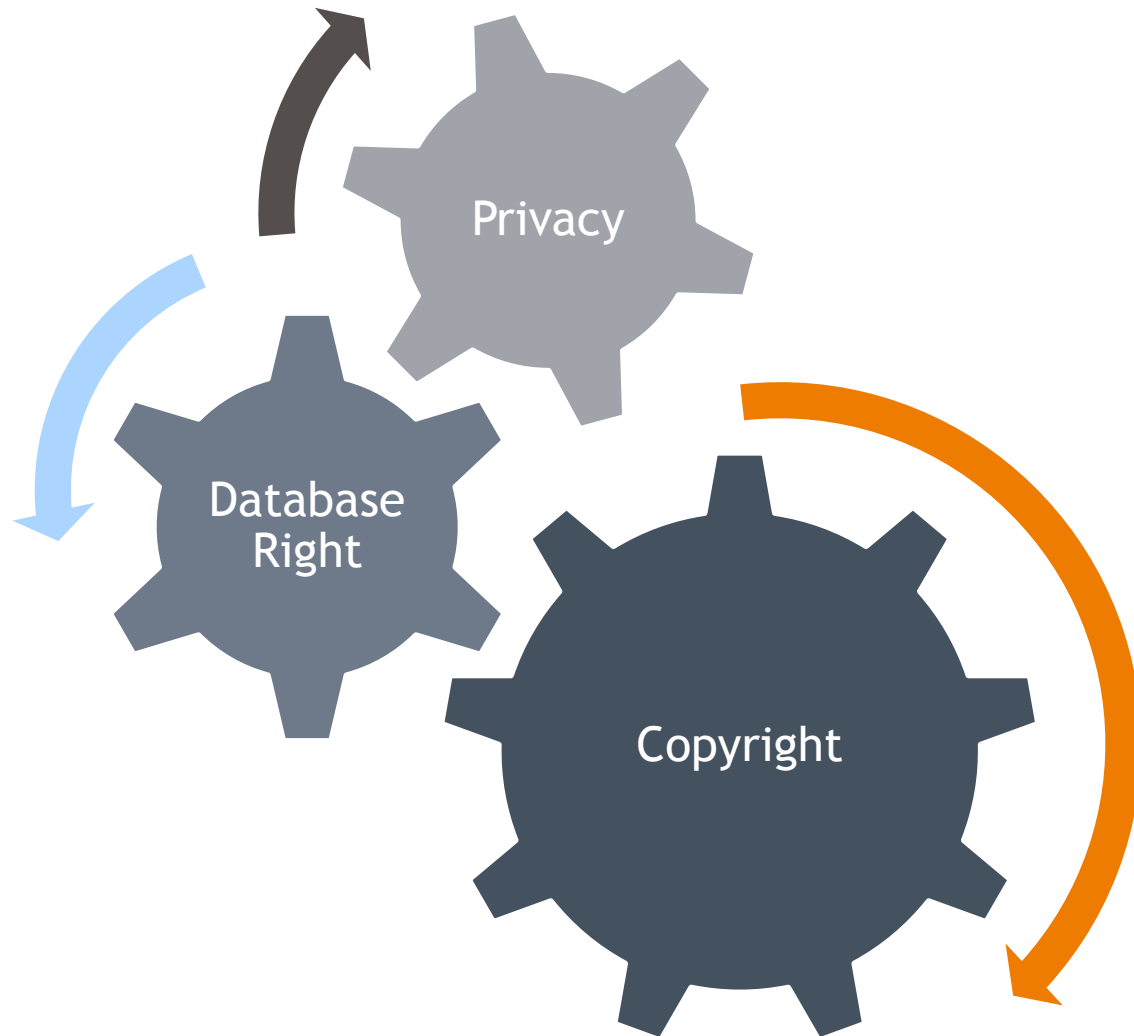


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# LEGAL PROTECTION OF RESEARCH DATA AND PUBLICATIONS

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# I. COPYRIGHT PROTECTION

## II.

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# COPYRIGHT PROTECTION: OVERVIEW

- Intellectual creation
- Literary, scientific or artistic domains
- Protects expressions, not ideas
- Original = not copied from others
- Merit and purpose are irrelevant
- Necessary forms are not protected
- Certain freedom of choice
- Not enforceable against similar but independently created works
- TBD on a case-by-case basis



# COPYRIGHT PROTECTION: OVERVIEW

- Protection commences automatically upon creation of the work
- No need for registration or other formalities
- No need to be published

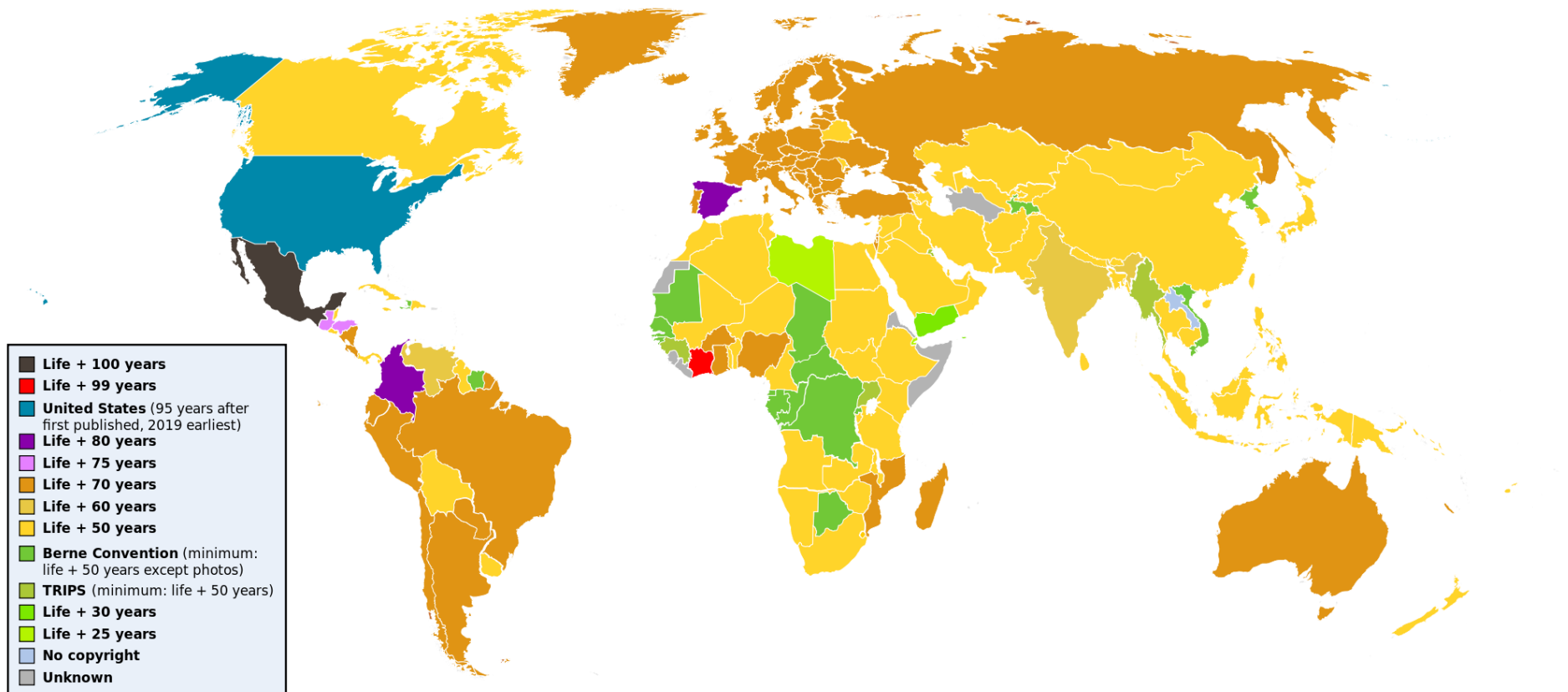


# COPYRIGHT PROTECTION: OVERVIEW

- Exclusive right to use or authorize others to use literary or artistic works:
  - Making a copy or downloading
  - Translating or adapting, etc.
- Exceptions:
  - Private copy
  - Citation, etc.
- Economic rights vs. moral rights
- Author vs. rightholder
- Territorial right



# COPYRIGHT PROTECTION: OVERVIEW



# COPYRIGHT PROTECTION: DATA

- Separate items of data in certain form
- Datasets in certain form
- Databases in certain form

=



- Bare facts
- Bare items of information

=



# COPYRIGHT PROTECTION: DATA

FORM  
=  
PROTECTED



CONTENTS  
=  
FREE



# COPYRIGHT PROTECTION: DATA

FORM  
=  
PROTECTED



- Tables
- Formulas
- Words
- Complete datasets
- Photographs
- Videos
- Maps
- Diagrams



# COPYRIGHT PROTECTION

PROTECTED



- Written down in original wording
- Presented in original manner
- Selected from a larger set of data and processed
- Original selection and arrangement to form a database



# COPYRIGHT PROTECTION: DATA

NOT  
PROTECTED



- Simply presenting a series of measurements in a table
- Short phrases
- Standard scientific terms/structures
- Satellite photos



Even if the FORM is PROTECTED by COPYRIGHT,  
BARE FACTS can still FREELY be used, provided  
they are presented in a different (own) form

**EXCEPT IF**

The use of the BARE FACTS constitutes a  
substantial retrieval from a database protected  
by SUI GENERIS RIGHT



I.

# II. SUI GENERIS RIGHT PROTECTION

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# SUI GENERIS RIGHT PROTECTION

OBJECT: arts. 2 and 7 Database Directive

- Collection of items (figures, codes, words, descriptions, photographs, etc.)
- Items must be independent: it must be possible to separate them without their losing their value/meaning
- Arranged in a systematic or methodical way
- Individually accessible by electronic or other means
- Qualitative and/or quantitative substantial investment in either the (1) obtaining, (2) verification or (3) presentation of the contents

# SUI GENERIS RIGHT PROTECTION

EXCLUSIVE RIGHT: art.7 Database Directive

- Right to prevent unauthorized extraction and/or re-utilization of the whole or of a substantial part of the contents of the database
- Protects the investment not the creation
- Different from copyright

# SUI GENERIS RIGHT PROTECTION

(OPTIONAL) EXCEPTIONS: art.9 Database Directive

- Private purposes
- (Non-commercial) Purposes of scientific research, provided that (a) source is indicated and (b) extent is justified by the purpose
- (Non-commercial) Purposes of illustration for teaching, provided that (a) source is indicated and (b) extent is justified by the purpose

# REUSE OF RESEARCH DATA AND PUBLICATION

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# I. CC COPYRIGHT LICENSES

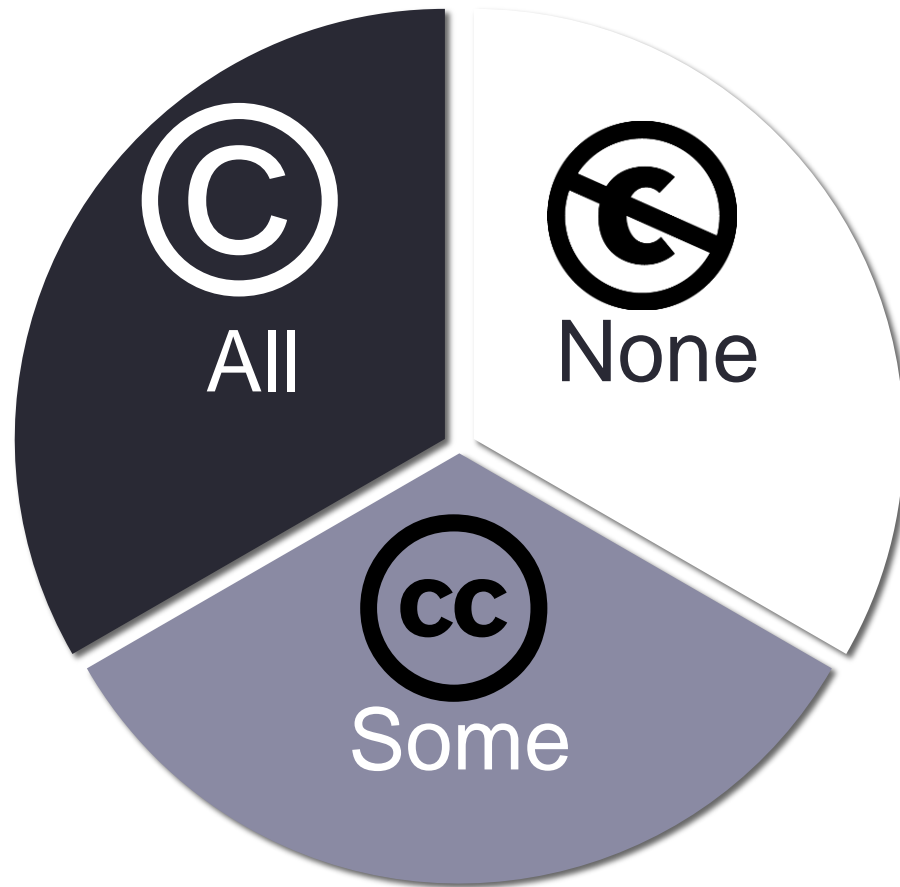
## II.

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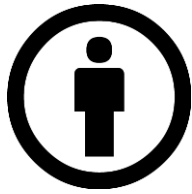


*Open data and content can be freely used, modified, and shared by anyone for any purpose*

Open Data definition by Open Knowledge

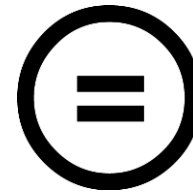


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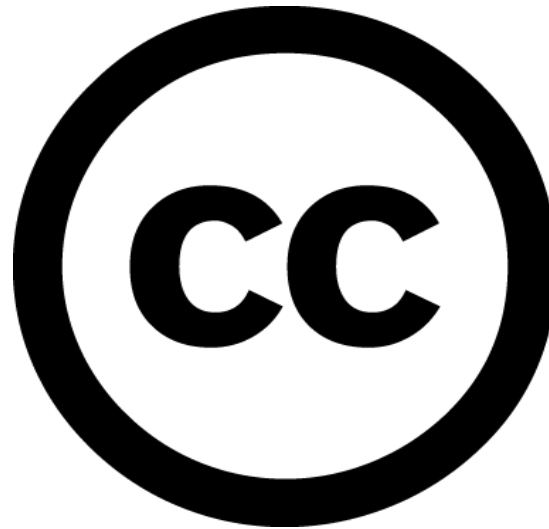
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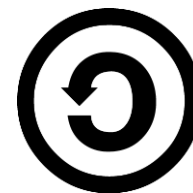
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NonCommercial



SA

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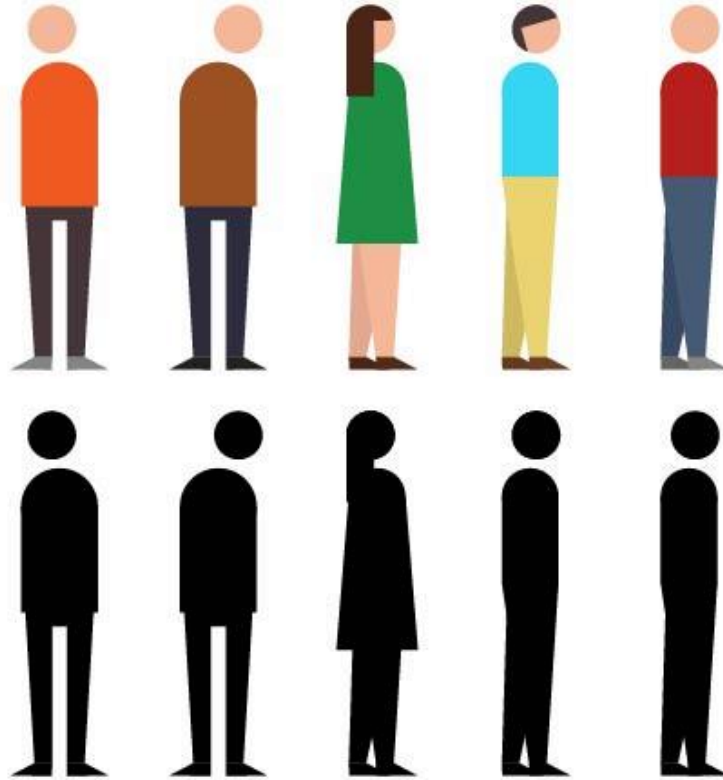
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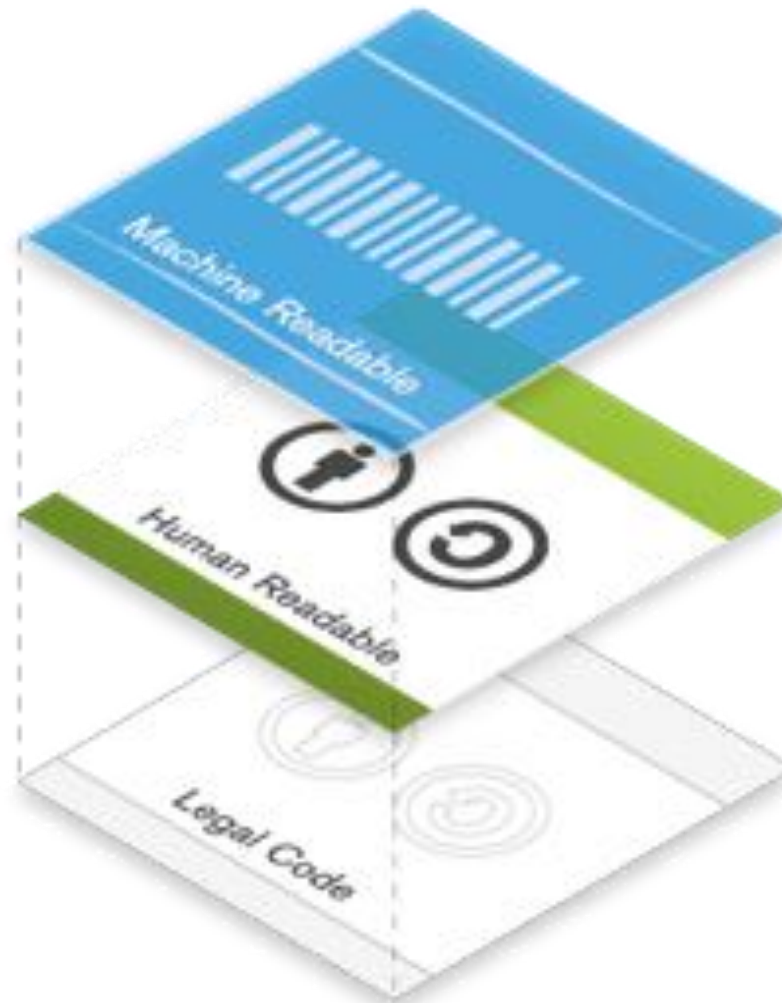
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FRIDAY

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# Three “layers” of licences





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2005: v. 2.5



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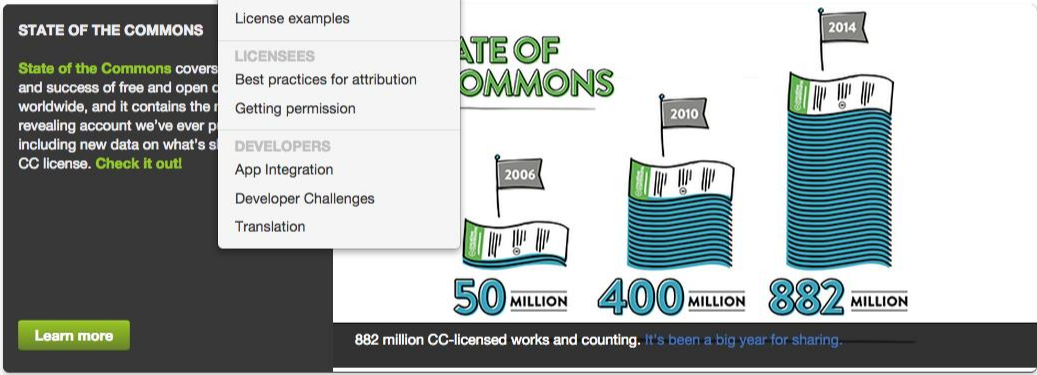
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I.

# II.CC PUBLIC DOMAIN TOOLS

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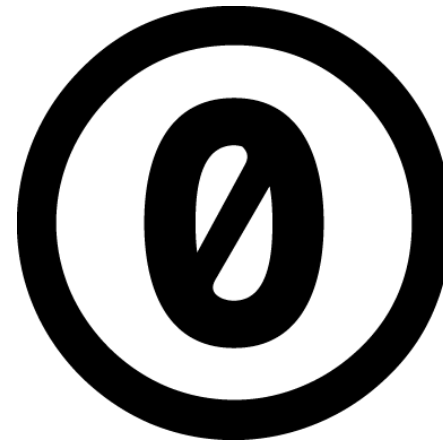
Panton Principles



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PUBLIC DOMAIN MARK



CC0 DEDICATION  
TO THE PUBLIC DOMAIN

Features	Public Domain Mark
Nature of tool	Label for works already in the worldwide public domain
Who may use	Anyone with knowledge
Scope	Copyright, including all related and neighboring rights
Legal status of work to which tool may be applied	<p>Any work that is already free of known copyright worldwide, including all neighboring and related rights</p> <p>NB: the PDM deed notes that moral rights may persist</p>
Person(s) whose rights are affected upon application of tool	None, PDM is not legally operative
Rights affected upon application of tool	None, PDM is not legally operative
Rights that may exist/persist after application	Moral and other related and neighboring rights that persist post-expiration of applicable copyright term (but note, PDM does not attempt to affect those rights)
Effect on work itself upon application	None, PDM is not legally operative but instead labels a work already free of known copyright and related and neighboring rights through means such as expiration of term of applicable copyright term

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Nature of tool	Tool that effectively places a work in the worldwide public domain
Who may use	Rights holder ("affirmer")
Scope	Copyright, including all related and neighboring rights
Legal status of work to which tool may be applied	Any work that is restricted by affirmer's copyright or neighboring and related rights, in one or more jurisdiction(s)
Person(s) whose rights are affected upon application of tool	Rights of the affirmer only; no effect on the right(s) of third parties
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