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Ohio IR Day

Spring 2018 Meeting

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## Copyright and the Institutional Repository

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# Copyright and Institutional Repositories

**Maria Scheid, Copyright Services**

**[go.osu.edu/copyright](https://go.osu.edu/copyright)**



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*Disclaimer: The information in this presentation is not legal advice, nor is Copyright Services legal counsel to the university or any members of the university community.*

# Agenda

## Copyright and Institutional Repositories

1. Copyright basics
2. What is being submitted?
3. Who is submitting?
4. How are these issues addressed?

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# Copyright Basics



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# What can be protected?

Original works of authorship fixed in a tangible medium of expression.

# Section 102 of the Copyright Law lists:

- literary works
- musical works, including any accompanying words
- dramatic works, including any accompanying music
- pantomimes and choreography
- pictorial, graphic and sculptural works
- motion pictures and other audiovisual works
- sound recordings
- architectural works



“Raindrops on roses, whiskers on kittens” by [murkredi](#) (CC BY-NC-SA 2.0)

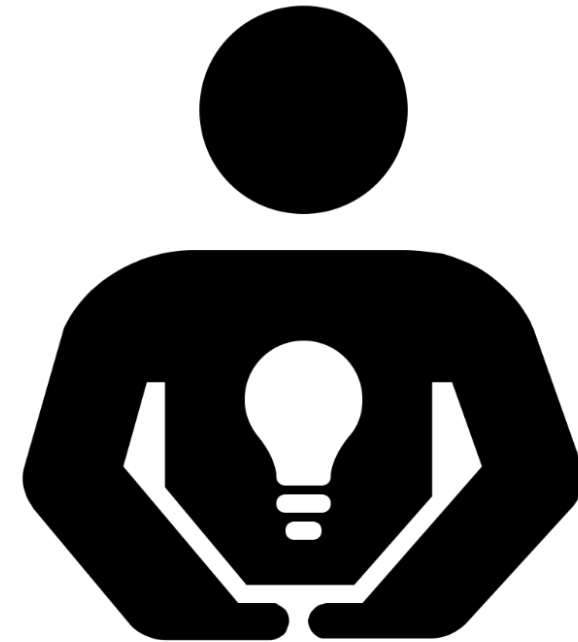
# The Author's Bundle of Rights

The exclusive rights outlined in §106:

- Right to **reproduce**
- Right to prepare **derivative works**
- Right to **distribute**
- Right to **display publicly**
- Right to **perform publicly**
- Right to **perform publicly** by means of **digital audio transmission** (for sound recordings)

# Who is the copyright owner?

- Generally the creator(s) or author(s)
  - Important exception: Works made for hire
- Institution's IP policy may define ownership differently
- Rights can be transferred in whole or in part over time



[Intellectual Property](#) by USPTO (Noun Project), [CC0](#)



# What is being submitted?



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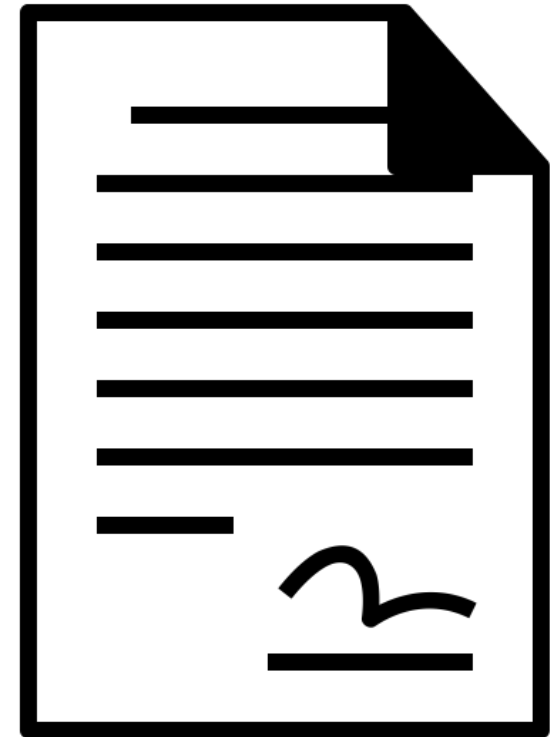
# What is being submitted?

- IRs may contain a variety of copyrighted materials: scholarly/non-scholarly, text, images, video, audio, etc.
- Mix of works by students, faculty, staff and third party content

*Why does it matter?* Different materials can present different ownership scenarios. Ownership impacts permissions.

# Author created content

- Is the author the copyright owner? Does the author have the rights to deposit in the IR?
- Check institutional policies for ownership
- Check terms of external publishing agreement
  - Transfer v. non-exclusive license
  - Embargo and article version



# Third party content



- What permissions are needed?
- Fair use? Who decides?
- Does your institution have a license agreement that will cover the material and use?

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Technology Policy, CC BY-NC-SA 3.0

# Relying on institutional content licenses

- Are terms broad enough to cover intended **use** of **content** within the **platform** of the IR?
- Example: ASCAP public performance license
  - Tier One license defines “Internet Site or Service” to include URLs operated or maintained by Licensee
  - Only applies to compositions within ASCAP repertory, not sound recordings
  - Only covers non-dramatic public performance

# Who is submitting?



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# Who is submitting?

- Author/creator
- Copyright owner
- Library or other institutional contact

*Why does it matter?* Ownership impacts permissions—you can't grants rights you don't have. It also influences how institutions think about liability.

# Copyright infringement

- Direct infringement
- Indirect infringement (secondary liability)
  - **Contributory**: knowledge of infringing activity + induces, causes, or materially contributes to infringing conduct
  - **Vicarious**: right and ability to supervise infringing activity + direct financial interest



# DMCA safe harbors

- § 512(c): limits liability of service provider for infringing content uploaded at the direction of users.
  - If the service provider has knowledge (actual or constructive) of infringing activity, they must act expeditiously to remove or disable access to the material.
- § 512(e): the knowledge of infringement by faculty or graduate students will not be attributed to a non-profit educational institution under certain conditions.

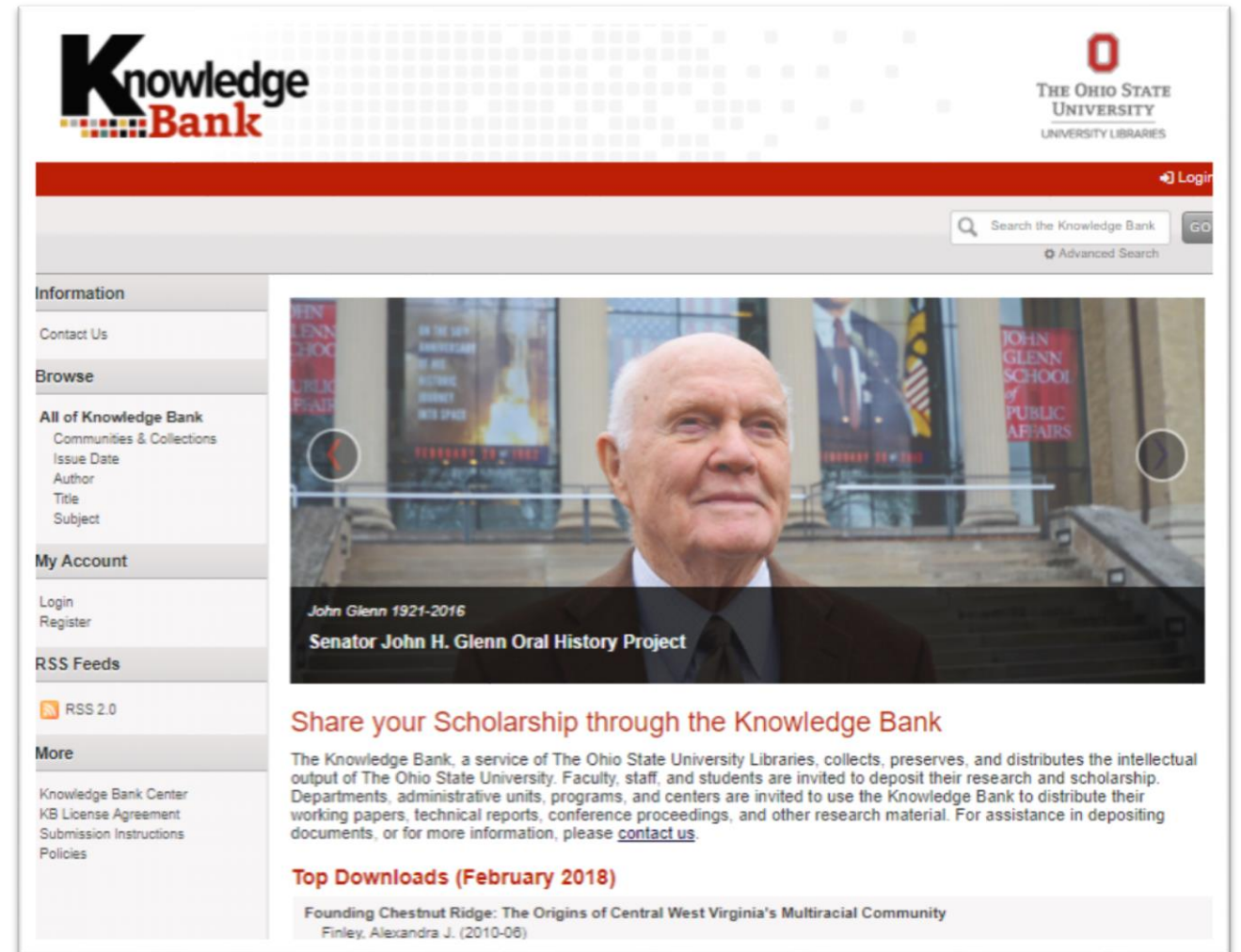
# OSU's Knowledge Bank



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# OSU's Knowledge Bank

- Collections from communities include articles/journals, working papers, conference proceedings, undergraduate theses, capstone projects, etc.
- Communities may designate a Community Administrator to submit materials.



The screenshot shows the Knowledge Bank website interface. At the top left is the Knowledge Bank logo, and at the top right is The Ohio State University University Libraries logo. A red navigation bar contains a 'Login' button. Below this is a search bar with the text 'Search the Knowledge Bank' and a 'GO' button, along with an 'Advanced Search' link. A left sidebar menu includes sections for 'Information' (Contact Us), 'Browse' (All of Knowledge Bank, Communities & Collections, Issue Date, Author, Title, Subject), 'My Account' (Login, Register), 'RSS Feeds' (RSS 2.0), and 'More' (Knowledge Bank Center, KB License Agreement, Submission Instructions, Policies). The main content area features a large image of Senator John H. Glenn with the caption 'John Glenn 1921-2016' and 'Senator John H. Glenn Oral History Project'. Below the image is a section titled 'Share your Scholarship through the Knowledge Bank' with a paragraph describing the service. At the bottom, there is a 'Top Downloads (February 2018)' section listing 'Founding Chestnut Ridge: The Origins of Central West Virginia's Multiracial Community' by Finley, Alexandra J. (2010-08).

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# Knowledge Bank License Agreement

- Representations:
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# Knowledge Bank License Agreement

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- Embargo period (1, 3, 5 years) supported. Metadata remains viewable by public.
- When appropriate, withdraw items as specified in Withdrawal Policy.
- Provide copyright information to submitting authors/communities.


# Communicating reuse rights to patrons

- Submission to KB does not call for a transfer of copyright
- Optional - Creative Commons license or public domain mark

URI: <http://hdl.handle.net/1811/45241>

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# Questions?

**Call:** 614-688-5849

**Tweet:** @OSUCopyright

**Email:** libcopyright@osu.edu

**Website:** [go.osu.edu/copyright](https://go.osu.edu/copyright)



[Question](#) by Valeriy, available on Noun Project ([CC BY 3.0](#))