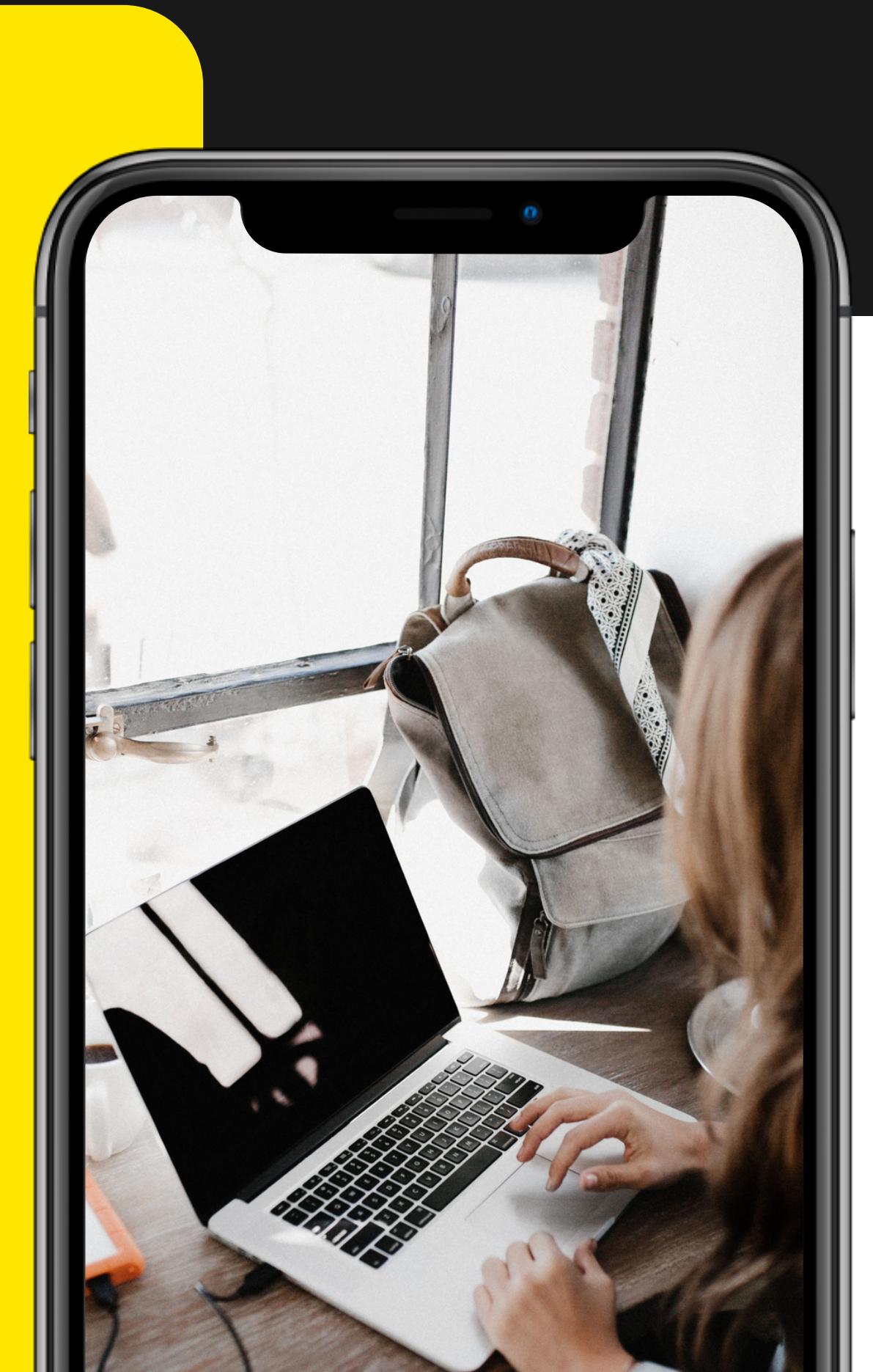


INFORMATION LITERACY

# What is Copyright?

Ryan Scicluna  
UM Library



# A Deal

It is useful to think of copyright as a bargain between the public and the creators of new works.

The two sides come together and make an agreement: creators get the right to protect their works, with the understanding that there are some exceptions and that this protection won't last forever.



# Works Protected by Copyrights

- Literary works (books, poems, plays, etc.)
- Music
- Choreography
- Graphic art (pictures, sculptures, comic strips, etc.)
- Audiovisual works (movies, TV shows, etc.)
- Sound recordings
- Architecture
- Computer programs



There are other things that are explicitly not subject to copyright protection:

- **Ideas and facts**
- **Certain kinds of designs (including fashion designs and the design of "useful objects" like lamps or chairs)**
- **Names, short phrases, or slogans**
- **Recipes**
- **Most government documents and laws**

Some of these may be available for protection as trademarks. For example, the distinctive design of the Coca-Cola bottle is not protected under copyright, but it is protected as a trademark.

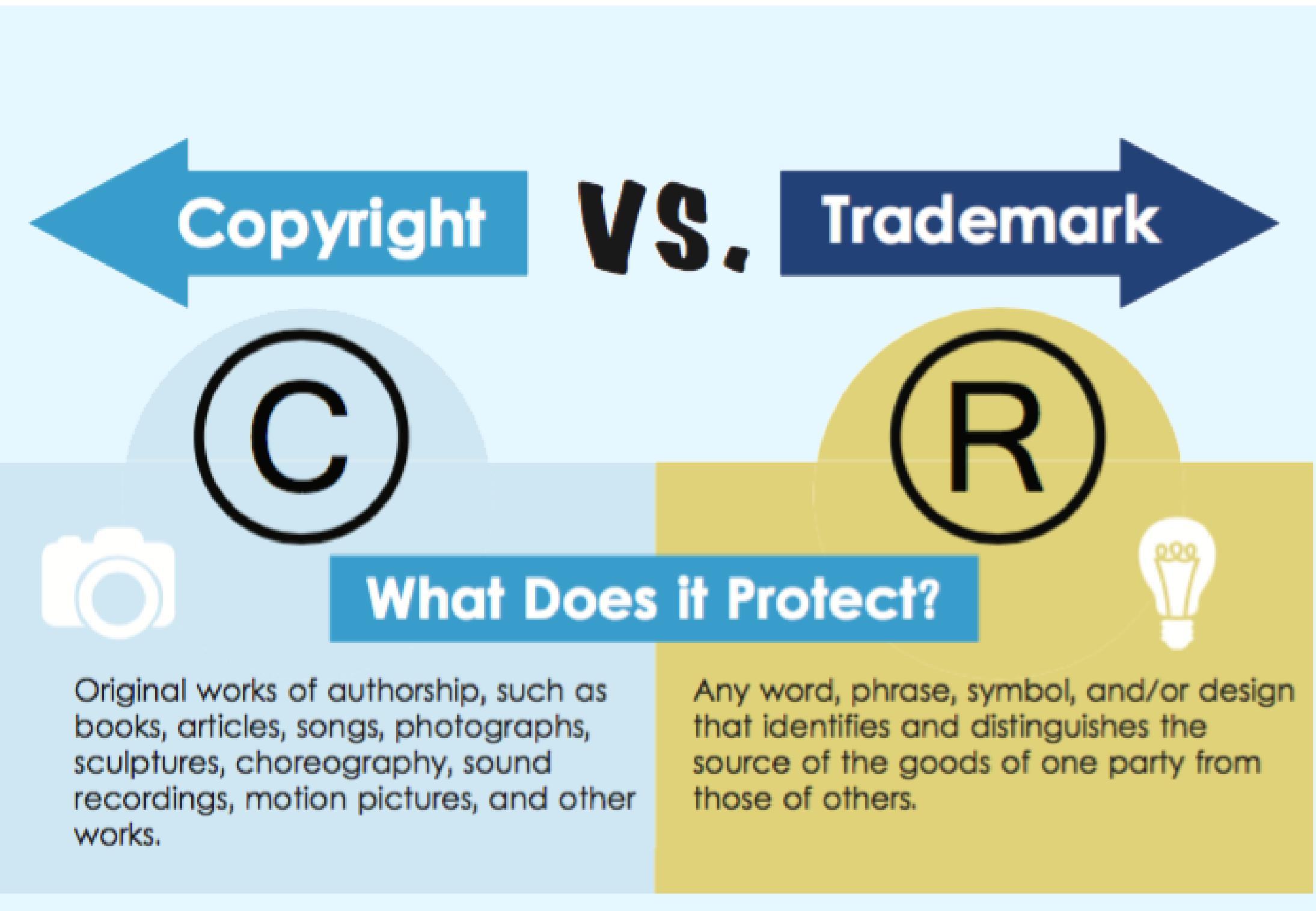


# Trademarks

The term "trademark" is often used in a general sense to refer to both trademarks and service marks.

A service mark is a word, phrase, symbol, and/or design that identifies and distinguishes the source of a service rather than goods. Some examples include brand names, slogans, and logos.

Unlike patents and copyrights, trademarks do not expire after a set term of years. Trademark rights come from actual "use". Therefore, a trademark can last forever – so long as you continue to use the mark in commerce to indicate the source of goods and services.





## COPYRIGHT

Protection is automatically granted to the author for their original, creative or intellectual work.



**Works:** Books, lectures, dramatic and musical works, cinematography, drawings, paintings, architecture, sculpture, photographs, illustrations, maps, plans sketches etc.



**Rights:** To distribute copies or phonorecords of the work to the public by sale or other transfer of ownership, or by rental, lease, or lending; To perform the work publicly in person or through audio transmission.



**Validity:** Registration not mandatory but recommended. Valid through the lifetime of the author and 60 years after his/her death. Owner has protection in most countries.



## TRADEMARK

This is a brand element which distinguishes your goods and services from those of your competitors and other traders.



**Marks:** Word mark, a logo mark or a slogan, shapes, and unconventional marks like colours, sounds, gestures, animation, holograms etc are also registrable as a trademark.



### LOGO

**Rights:** Exclusive right to use the mark and prevent anyone from using it without permission. It also gives the owner the right to license, assign and sell the mark in return of some compensation.



**Validity:** 10 years which can be made perpetual, as long as renewed every 10 years. Should be applied separately in every country in which protection is required and has a market in.



## PATENT

This concerns obtaining protection for new inventions that are new, original and useful.



**Invention will be patented if:** Novel or Original, has an Inventive step (non-obvious) and has some Industrial application.



**Rights:** Exclusive authority over the patented invention, right to exclude others and exploit the patent and earn from it.



**Validity:** Patent protection is territorial right and therefore it is effective only within the territory of India. Separate patents required to be filed for each country where protection is required. Patent is valid for period of 20 years after which it goes in public domain.

# The "Rights" in Copyright

There are five basic rights protected by copyright.

The owner of the copyright has the exclusive right to:

**distribute copies of the work to the public (by selling, renting, lending, licensing, or leasing it)**

**prepare derivative works based upon the copyrighted work (e.g., to adapt a novel into a screenplay)**

**reproduce the copyrighted work**

**perform the work publicly**

**display the work publicly**

**Copyright holders may also transfer any or all of these rights to another party. For example, writers often transfer their copyright to a publisher as part of a publishing agreement.**



## Copyright's Lifespan

Previously, anyone seeking copyright protection for a work had to register it with the proper authority or give a notice of copyright (usually with the © symbol) indicating the year of copyright and the owner.

Not anymore. Under current law, copyright applies automatically as soon as a work is fixed in a tangible medium of expression.

Even the doodles in your notebook are protected by copyright the instant you make them.

## Public Domain

Right now, the duration of copyright protection for new works is the life of the author plus 70 years.

For works produced for hire (i.e., by a corporation), copyright protection lasts for 120 years after creation or 95 years after publication, whichever is sooner.

These durations can change if new laws are passed.

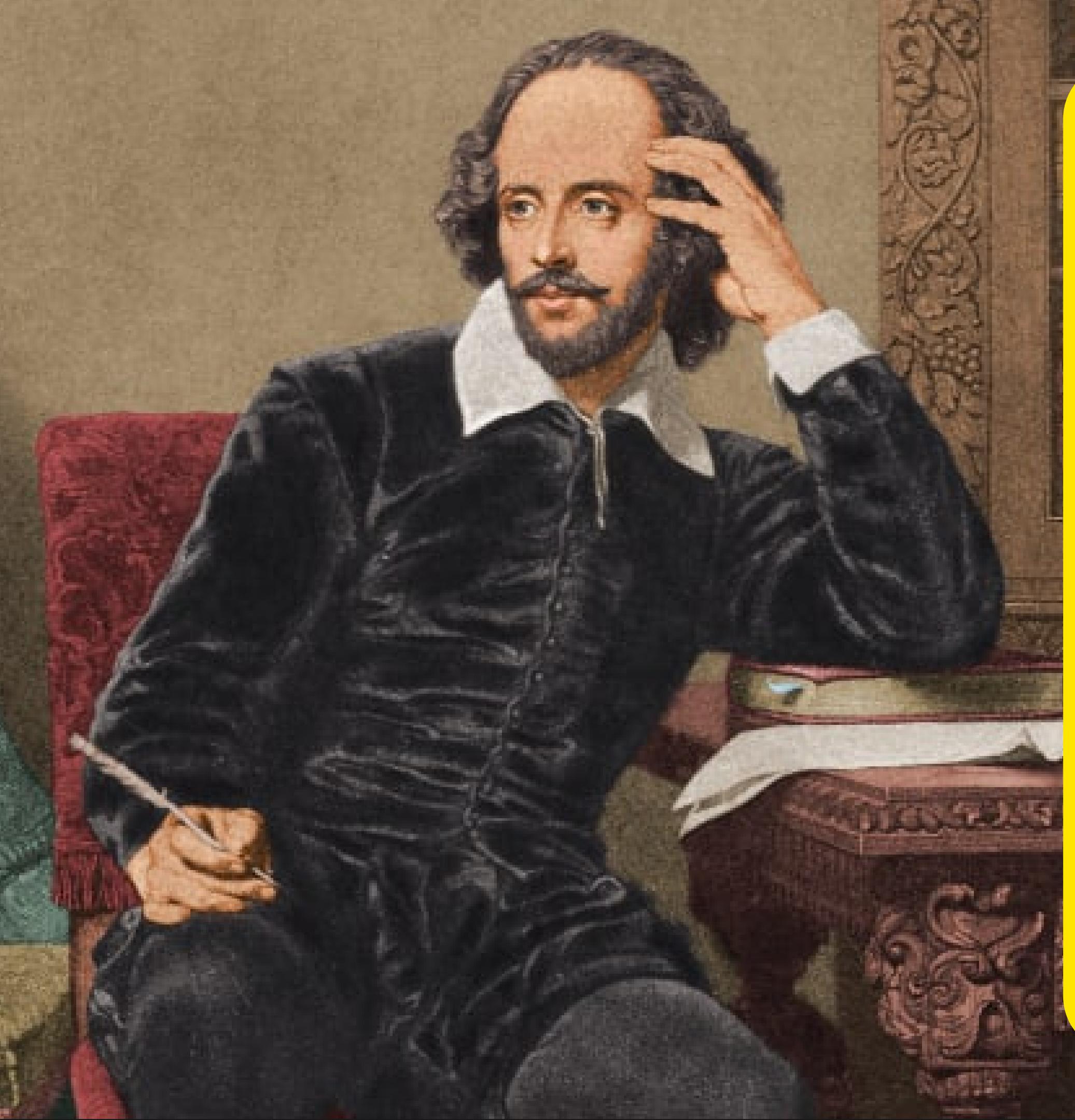
Once copyright protection expires, a work is said to have entered the public domain.

# More on Public Domain

The public domain consists of everything that is out of copyright or ineligible for copyright protection.

Creators may also intentionally dedicate a work to the public domain by declaring a forfeiture of their rights. Anyone can use a public domain work without obtaining permission, but no one can ever own it.

However, it is possible for works that are not protected by copyright to be protected by trademarks or other intellectual property laws. Likewise, it is possible to transform or incorporate public domain works into new works which may be eligible for copyright protection.



## **Example:**

The works of William Shakespeare are all in the public domain.

However, a filmmaker may make a movie version of one of his plays, or a publisher may assemble a collection of his plays with criticism and annotations, and these new works could be protected under copyright even though the text of the play remains in the public domain.

# Fair Use

Fair use is a defense that allows certain uses of copyrighted material without permission.

These uses include things like criticism, commentary, news reporting, education, research, and parody. The limits of fair use are somewhat vague and are judged on a case-by-case basis.

The law sets out four factors to be considered when judging whether a use is fair

It is important to remember that fair use is a **legal defense to be argued in court**.



**The purpose and character of the use.** Uses that are considered "transformative"--that use the work to create something new--are more likely to be considered fair.



**The nature of the copyrighted work.** Because facts cannot be copyrighted, the use of factual information from a copyrighted work is more likely to be considered fair.



**The amount and substantiality of the portion used in relation to the copyrighted work as a whole.** Generally, the smaller the amount taken, the more likely the use is to be considered fair.



**The effect of the use upon the potential market for or value of the copyrighted work.** A use that can be demonstrated to deprive the copyright owner of potential income is very unlikely to be considered fair.

# Types of Creative Commons Licenses



## ATTRIBUTION

Can someone use my work to make money?

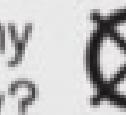


Can someone change my work?



## ATTRIBUTION- NONCOMMERCIAL

Can someone use my work to make money?



Can someone change my work?



## ATTRIBUTION- NONCOMMERCIAL- NODERIVS

Can someone use my work to make money?



Can someone change my work?



(MUST  
ALSO BE  
LICENSED  
BY-SA)

## ATTRIBUTION- SHAREALIKE

Can someone use my work to make money?

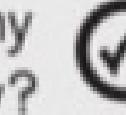


Can someone change my work?



## ATTRIBUTION- NODERIVS

Can someone use my work to make money?



Can someone change my work?



(MUST  
ALSO BE  
LICENSED  
NC-BY-SA)

## ATTRIBUTION- NONCOMMERCIAL- SHAREALIKE

Can someone use my work to make money?



Can someone change my work?



# Creative Commons (CC)

## **CC Attribution**

It allows for all copying, modification and redistribution (even commercially), provided that the original author is attributed (with no implication of endorsement). Work under CC Attribution is essentially free to use.

## **CC Attribution-NoDerivs.**

Redistribution is allowed, provided that attribution is given and no modifications are made.

## **CC Attribution-NonCommercial-NoDerivs.**

Redistribution is allowed for noncommercial use and without any modification.

## **CC Attribution-NonCommercial-ShareAlike.**

Everything is allowed with attribution, provided that it is not done commercially, but derivative work must be under the same license.

## **CC Attribution-NonCommercial.**

Everything is allowed with attribution, provided that it is not done commercially.

## **Example**

This work includes the photo "Photo's Title," available under a Creative Commons Attribution license, © Author's Name.



# Other Limitations

The **first-sale doctrine** is a rule that says that once someone has legally obtained a legitimate copy of a copyrighted work, they may lend, sell, or give away that copy to others.

This provision was important in the growth of the movie rental industry, and it has been a contentious issue in the realm of digital content, where things like books and movies are frequently licensed rather than owned.



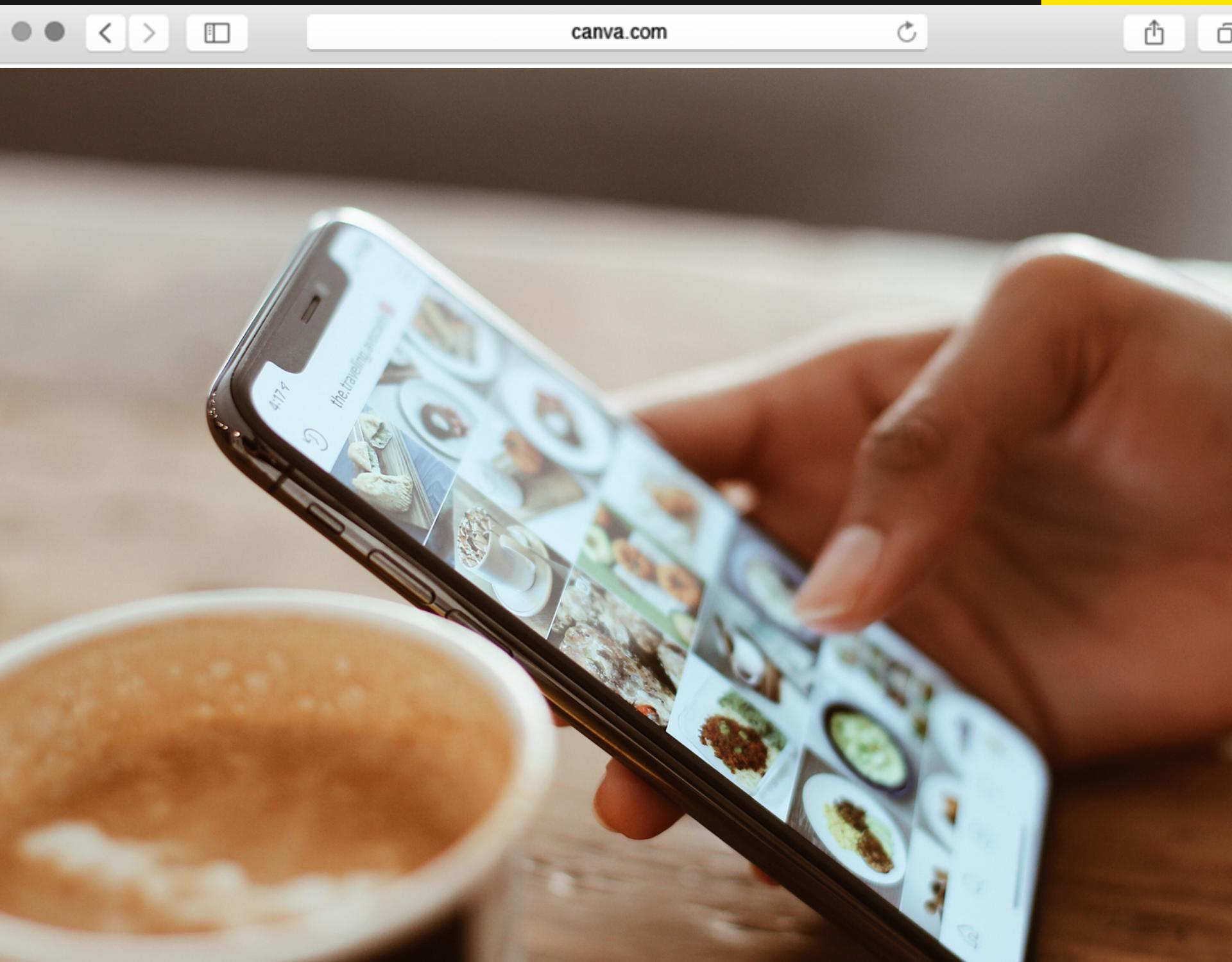
The fact that ideas cannot be copyrighted but that tangible expressions of those ideas can be is called the **idea/expression dichotomy**.

While a paper describing an economic theory may be protected by copyright, the theory itself cannot. This means that others are free to describe, critique, extend, or use the theory as they wish without needing permission from the creator.

Certain exemptions apply for specific types of institutions, such as **libraries and archives** and **public broadcasters**.

Some laws also provide for **compulsory licenses** for certain types of work. The most common situation covered by compulsory licensing is the cover song: an artist that wishes to sell a cover version of a song pays royalties to the owner of the song's copyright, but the copyright owner cannot prevent the cover version from being sold.

# Questions?



- **Email Address**  
ryan.scicluna@um.edu.mt
- **Website**  
www.um.edu.mt/library

References:  
Lincoln Memorial University