InterPARES 3 Project

International Research on Permanent Authentic Records in Electronic Systems

TEAM Canada

Title: Case Study 15 – cIRcle UBC Institutional Repository - Policies, Guidelines and Procedures for Management and Preservation of Digital Assets Deposited into an Institutional Repository: Workshop 05 Action Item 18 – Draft Intellectual Property Policy for Materials Submitted to cIRcle

Updated for Workshop 08

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Document Control

Version history			
Version	Date	By	Version notes
1.0	2010-05-20	C. Drego, B. Godin, E. Shaffer	Discussion draft prepared following identification of action items for CS15 at TEAM Canada Plenary Workshop 05.
1.1	2010-05-20	R. Preston	Minor content and copy edits.
1.2	2010-05-20	C. Drego, B. Godin, E. Shaffer	Content edits; added Appendix 2.
2.0	2010-11-06	E. Shaffer, H. Inefuku	Updated discussion draft prepared following identification of action item 39 for CS15 at TEAM Canada Plenary Workshop 06.
2.1	2010-11-09	R. Preston	Minor content and copy edits.
3.0	2011-11-01	E. Shaffer	Updated version to incorporate recommendations from TEAM Canada Plenary Workshop 07.
3.1	2013-12-02	R. Preston	Minor content and copy edits for public draft version.

Action 18: H. Colenbrander, with assistance from the Graduate Research Assistants assigned to case study 15, to develop an intellectual property policy for materials submitted to cIRcle (L. Duranti)

Overview

cIRcle is the institutional repository of the University of British Columbia, and is a service of the UBC Library. It was established in the spirit of the UBC Library's commitment to Open Access. cIRcle is a service intended to ensure UBC's intellectual output is freely accessible online and serves as both a digital repository and an electronic library, liaising with both the UBC Library and the University Archives. It is mandated to organize and preserve its content and make it available to the UBC community and to outside users via the Web.

The digital content of the repository consists of the works of the UBC community in all formats deposited by individuals and/or identified communities, including documents that could be easily lost once completed (e.g., conference papers or presentations), and documents that are posted to faculty Web sites but may not be easily searchable on the Web, giving testament to the wide range of academic materials produced by the UBC community. cIRcle uses DSpace software to house, preserve and access it contents.

Hilde Colenbrander and the Graduate Research Assistants (GRAs) assigned to the case study have revised the cIRcle Intellectual Property Policy (see Appendix 1). Substantial revisions have been made to the draft policy to incorporate suggested changes to the policy made by InterPARES researchers at the May 2011 TEAM Canada plenary.

Appendix 1:
cIRcle Digital Repository: Intellectual Property Policy DRAFT

Purpose
The purpose of the cIRcle intellectual property [IP] policy is to ensure that all activities undertaken by cIRcle comply with and protect the intellectual property rights associated with items submitted to cIRcle, UBC's digital repository. Such a policy seeks to establish standard practices in order to protect cIRcle from liability related to infringement of intellectual property. Further, the policy not only serves to assure and inform all participants of cIRcle's compliance, but to alert all participants to their obligations regarding intellectual property. All submissions to cIRcle must be accompanied by a non-exclusive distribution license.

Scope
The IP policy covers all digital objects submitted to cIRcle. Digital objects fall into two categories, public domain works and works in which IP rights subsist. In either case, digital objects must be linked to the information capable of demonstrating the right of cIRcle to hold[1] the digital object. This information includes identification of works and rights holders related to individual digital objects (as identified by the licensor) along with licenses, statements and other evidence.

cIRcle Working Mandate
cIRcle is the University of British Columbia's digital repository for research and teaching materials created by the UBC community and its partners. Materials in cIRcle are openly accessible to anyone on the Web, have persistent URLs, and will be continually preserved.

Policy Statement
cIRcle has a legal obligation to ensure that all acquisitions are undertaken in accordance with Canadian intellectual property laws. As such, cIRcle must acquire licenses or identify exceptions (public domain, fair dealing) permitting the use of the material for the purposes implicit in its mandate. The failure to properly obtain or ascertain its rights regarding the use of deposited material could lead to legal action, financial penalties, reputational damage, as well as hinder its ability to function and fulfill its mandate.

Proper collection and record keeping regarding cIRcle's efforts to obtain or ascertain its rights are essential to being able to defend itself against accusations of infringement, misuse or abuse of creators' rights.

In addition, the proper operation of a digital repository requires the trust and confidence of the UBC community. The UBC community must be able to trust that reasonable efforts are undertaken by cIRcle to protect all parties from violations of intellectual property rights.

cIRcle accepts digital objects, with the understanding that authors have fulfilled their roles and responsibilities regarding copyright compliance, have obtained permissions where applicable and

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[1] This includes all normal activities (e.g., preservation, access, etc.) undertaken by cIRcle in relation to a digital object.

have informed cIRcle of any restrictions pertaining to the object(s). Any and all copyright violations are entirely the responsibility of the author(s). If cIRcle receives proof of copyright violation the digital object(s) will be withdrawn.

Use of works in cIRcle
Works in cIRcle may be downloaded, reproduced and displayed for private study, educational and/or research purposes without prior permission or charge, provided the work is not altered in any way and is properly acknowledged, including citing the author(s), title and full bibliographic details. Additional uses may be assigned by the author through the assignment of a Creative Commons license when submitting digital object(s) to cIRcle.

Withdrawal

Digital objects will not be removed from cIRcle. However, public access to digital objects may be withdrawn for a variety of reasons including, but not limited to, proven copyright violation or plagiarism, national security, falsified research, or publication embargo. In case of a dispute, the cIRcle Coordinator may remove the digital object from public view, pending resolution of the dispute, and should notify the author or copyright holder accordingly. Authors may also request withdrawal of a digital object for a variety of reasons. The head of the cIRcle community, the author or copyright holder, and the cIRcle Coordinator must approve such withdrawal of a digital object(s). The metadata for digital objects withdrawn from cIRcle will remain accessible to cIRcle administrators and will be subject to preservation actions.

The licensing agreement between an author and cIRcle is a non-exclusive one. Authors are therefore free to submit copies of their work elsewhere. However, copies of their work will remain permanently in cIRcle.

Roles and Responsibilities

cIRcle Coordinator
The cIRcle Coordinator develops and implements procedures that require agreement to a license(s) before work is submitted to cIRcle. She/he notifies users of their responsibilities regarding intellectual property rights when accessing material and develops a system to ensure a persistent connection between a digital object and its related license(s).

cIRcle Library Assistant
Together with Coordinator, the cIRcle Library Assistant develops a system to ensure a persistent connection between a digital object and its related license(s).

cIRcle Programmer/Analyst
The Programmer/Analyst programs any changes to the cIRcle system that are needed to ensure the proper management of licenses.

University Archivist
The University Archivist liaises with the Office of the University Counsel and Library administration regarding licensing issues related to UBC retrospective theses and dissertations in cIRcle. The University Archivist also ensures that appropriate permissions are in place with respect to University Archives materials that are added to cIRcle.

Faculty of Graduate Studies
The Faculty of Graduate Studies is responsible for ensuring that all current UBC theses and dissertations submitted to cIRcle are appropriately licensed, i.e. that the text of the click through license agreement that students accept when submitting theses or dissertations online to cIRcle accurately reflects the students' and the University's rights and responsibilities regarding copyright and intellectual property.

Author
The Author grants cIRcle the required license(s) which includes: information regarding any restrictions or obligations regarding distribution or publication of the submission; the obligation to identify holders of any rights that subsist within the submission; the obligation to inform cIRcle of any changes to the information provided to cIRcle regarding the submission; and the obligation to inform other authors of the existence of the submission to cIRcle and licenses granted to UBC as it pertains to the material contained in the submission. The Author optionally grants a Creative Commons license for the item deposited in cIRcle. This provides users of the item with additional conditions under which they may use the material.

cIRcle Community
The cIRcle community participates in, encourages and promotes the use and distribution of submissions while respecting the intellectual property rights, both economic and moral, subsisting in the submissions.

Depositor
The Depositor obtains all necessary licenses and provides them to cIRcle prior to submitting any materials to cIRcle.

User
The User has a responsibility to adhere to cIRcle policy regarding use of digital objects by properly acknowledging the authors of the work.

Definitions

Author: The individual, group, or organization responsible for the content of a document submitted to cIRcle.

cIRcle Community: Faculty, department, research unit or other identified group that creates or generates material added to cIRcle..

Depositor: An individual who submits material to cIRcle either on his/her own behalf or at the request of the author(s).

Digital Object: A discrete aggregation of one or more bitstreams and related metadata and, if applicable, methods of performing operations on the object.

Digital Repository: A program or facility that acquires and stores digital objects for preservation and dissemination. In the case of a University Digital Repository, the material collected acquired and stored is produced by the University community and its partners.

Faculty of Graduate Studies: The Faculty responsible for the administration of graduate programs at the University of British Columbia.

File: A collection of structured data elements stored as a single entity.

File Format: The organization of data within digital objects, usually designed to facilitate the storage, retrieval, processing, presentation and/or transmission of the data by software.

Metadata: Data describing the identifying attributes of digital entities and their management through time.

University of British Columbia (UBC) Community: Faculty, staff, students, visiting scholars and other individuals and groups who participate in the activities undertaken at or in connection with the University of British Columbia.

Withdrawal: Public access to digital objects is removed; however, objects and their accompanying metadata remain in cIRcle and are subject to preservation action.

Associated Policies, Legislation and Standards
cIRcle Policies & Guidelines
Acquisition Policy
Digital Preservation Policy

Legislation
University Act (R.S.B.C., 1996, c. 468)
Canada Copyright Act (R.S., 1985, c. C-42)
Canadian Patent Act (R.S., 1985, c. P-4)
Canadian Trade-Marks Act (R.S., 1985, c. T-13)

Standards
Electronic Records as Documentary Evidence (CAN/CGSB-72.34-2005)
Microfilm and Electronic Images as Documentary Evidence (CAN/CGSB-72.11-93)

Associated Forms
cIRcle Online Submission Form
cIRcle Non-Exclusive Distribution License

Associated Procedures
Forthcoming

Availability of Policy

This policy will be made available via the cIRcle Web site to all stakeholders including cIRcle employees, depositors, authors, rights holders and cIRcle patrons.

Policy Review

This policy is subject to approval by the UBC Library and will be reviewed every three years. As part of the review, all specific references to legislation, policies, or other documents should be updated to reflect the latest iteration of all materials.

Date Approved

Date Last Reviewed

Next Review date