Copyright & Authors’ Rights: Fact or Fiction?

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What we’ll cover today

- Copyright & Exceptions to Copyright
- Creative Commons Licenses
- Authors’ Rights
- Open Access and Repositories
- ETDs and Embargoes
Purpose of ©

- “to promote the progress of science and the useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries.”

  (Article I, §8 of the U.S. Constitution)

- Copyright is supposed to promote learning and invention

*The Copyright Act is located in Title 17 of the United States Code.*
What can be copyrighted?

- Literary works;
- Musical works, including any accompanying words;
- Dramatic works, including any accompanying music;
- Pantomimes and choreographic works;
- Pictorial, graphic, and sculptural works;
- Motion pictures and other audiovisual works;
- Sound recordings; and
- Architectural works.

17 U.S.C. § 102
What cannot be copyrighted?

- **Ideas & theories**
  - Copyright protects expression of ideas, but not the ideas themselves

- **Facts & discoveries**
  - Including data

- **U.S. government works (federal level) produced by a government employee in the scope of their duties**

- **Works whose copyrights have expired – enter the public domain**
  - Works in the public domain can be used freely by anyone for any purpose
When does © protection begin?

- Copyright protection begins **automatically** in:
  - “original works of authorship fixed in any tangible medium of expression…” 17 U.S.C. § 102(a)
  - Only needs a small amount of creativity to be original
  - Writing, painting, taking pictures, building a sandcastle, blogging, and Tweeting are all fixed works in tangible mediums
    - Fixed ≠ permanent
No formalities needed for protection

- You do not have to publish your work to get copyright protection
- You do not have to register your work with the Copyright Office to get protection
- You do not have to provide notice (use the © symbol) in order to get protection

*Although, you cannot sue for statutory damages or attorneys’ fees until after your work is registered with the Copyright Office*
© owners’ exclusive rights

1. Reproduction;
   ▪ Copies

2. Derivatives;
   ▪ New works based on the original copyrighted work

3. Distribution;
   ▪ To the public by sale, rental, lease, or lending

4. Public performance;
   ▪ Literary, musical, dramatic and choreographic works, pantomimes, motion pictures and other audio visual works

5. Public display;
   ▪ Literary, musical, dramatic and choreographic works, pantomimes, and pictorial, graphic, or sculptural works

6. Public performance of work via digital audio transmission
   ▪ This is a very limited right that applies only to sound recordings
   ▪ © owners of sound recordings only have the exclusive rights to #1, #2, #3, and #6 on this list!

17 U.S.C. § 106
How long does © protection last?

- Works created in 1978 or later:
  - Created by a person = life of the author + 70 years
  - Created by a corporation (and works made for hire) = the shorter of 120 years from creation or 90 years from publication

- Works created before 1978:
  - Use this chart – http://copyright.cornell.edu/resources/publicdomain.cfm

- Works created before 1923 are in the public domain

- Foreign works
  - Use chart above
Exceptions to exclusive rights

- §107 Fair Use
- §108 Reproduction by Libraries and Archives
- §110(1) Face-to-Face Teaching
- §110(2) TEACH Act

*this list is not exhaustive*
Face-to-face teaching

- “performance or display of a work by instructors or pupils in the course of face-to-face teaching activities of a nonprofit educational institution, in a classroom or similar place devoted to instruction, unless, in the case of a motion picture or other audiovisual work, the performance, or the display of individual images, is given by means of a copy that was not lawfully made under this title, and that the person responsible for the performance knew or had reason to believe was not lawfully made…”

- Must be in a **classroom**

- Must be **in person**

- Must be at a **nonprofit educational institution**

17 U.S.C. §110(1)
Fair use

- Fair use is detailed in §107 of the Copyright Act and allows things like:
  - “criticism, comment, news reporting, teaching, scholarship, research"

- Exception to exclusive rights

- It only applies to works that have © protection
  - if the work is in the public domain, you do not need to rely on fair use

- Fair use is a defense to an accusation of copyright infringement
  - it does not actually prevent an accusation in the first place

- Fair use is a balancing test and courts look at four factors when determining whether a use is fair

17 U.S.C. §107
Four factors:

1. **Purpose of use**
   - Nonprofit? Educational? Commercial?

2. **Nature of work used**
   - Published? Unpublished? Nonfiction? Creative?

3. **Amount and substantiality of work used**
   - Just a small amount? Is it the heart of the work?

4. **Effect on market of work**
   - Will it compete with sales of the original?

Strong emphasis on whether use is **transformative**

1. Is the purpose of your use different than the original purpose of the work?
2. If yes, is the amount used appropriate to your transformative use? (too much, not enough?)
Fair use balancing test

- Only a court can definitively determine whether a use is fair – it is a balancing test, so you cannot just check off each factor, you must weigh them all and determine whether your use overall leans in favor or against fair use
  - There are several checklists that can help you make a determination

- Case by case analysis – you must look at each use individually to determine whether it is fair

- Fair use is flexible and vague -- continually evolves as the 4 factors are applied to new cases

- If fair use applies you do NOT need permission

- If fair use does not apply, you can always seek permission
Using others’ works

- Linking to outside websites, videos, etc. does NOT infringe copyright

- Thumbnail versions of images are fair use in certain instances -- *Google v. Perfect 10*
  - [http://fairuse.stanford.edu/primary_materials/cases/perfect10google.pdf](http://fairuse.stanford.edu/primary_materials/cases/perfect10google.pdf)

- Quotes and excerpts are generally recognized as fair use in academia

- Photographic reproductions of public domain images (including 2d works of art) do **not** have copyright protection – *Bridgeman Art Library v. Corel Corp.*
  - [https://www.law.cornell.edu/copyright/cases/36_FSupp2d_191.htm](https://www.law.cornell.edu/copyright/cases/36_FSupp2d_191.htm)
  - Does not apply to photos of 3d art (sculpture, architecture, etc.), but fair use may be appropriate

- Terms of licenses and other contracts **trump** copyright exemptions like fair use
Creative Commons Licenses
What are Creative Commons (CC) Licenses?

- “Our free, easy-to-use copyright licenses provide a simple, standardized way to give the public permission to share and use your creative work — on conditions of your choice. CC licenses let you easily change your copyright terms from the default of ‘all rights reserved’ to ‘some rights reserved.’”
  
  [http://creativecommons.org/about](http://creativecommons.org/about) by CC is licensed under CC BY 4.0

- “Creative Commons licenses are not an alternative to copyright. They work alongside copyright and enable you to modify your copyright terms to best suit your needs.”

  [http://creativecommons.org/about](http://creativecommons.org/about) by CC is licensed under CC BY 4.0
What are CC Licenses?

- They are issued by © owners
- The work still has © protection – the owner is simply providing a license to others to utilize his work for specified purposes
- If a work is in the public domain, you don’t need to rely on a CC license
- If your use falls under one of the copyright exceptions or limitations (like fair use), you don’t need to rely on a CC license
CC Licenses

- Standard for Licensing

- Widely used by:
  - Individuals
  - Government agencies
  - Foundations/Institutes
  - Academics
CC Licenses

- Works with ©

- Modify reuse terms:
  - Attribution
  - Distribution/sharing
  - Derivative works
  - Commercial use
CC Licenses

- Irrevocable license

- Choose wisely!
  - Grants permission under terms
  - *Can* change terms later, but:
    - Not recommended
    - Still be used under original terms
CC Licenses

- Covers variety of items

- Individual/one item:
  - Article
  - Report
  - Blog post
  - Photograph
CC Licenses

- Covers variety of items

- Group or all items within:
  - Journal
  - Series
  - Website
  - Collection
CC Licenses

- Include license information on:
  - Each individual item
  - Each page of a website
Types of CC Licenses

- Six standard licenses
  - All contain attribution
    - Must credit original work
  - Other terms may apply
Attribution

- CC BY
- Distribute, remix, tweak, build upon
- Commercial use *allowed*
- *Most accommodating*

*Creative Commons image by Creative Commons is licensed under a CC BY 4.0*
Attribution ShareAlike

- **CC BY-SA**
- Distribute, remix, tweak, build upon
- Commercial use *allowed*
- License under identical CC terms

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Attribution NonCommercial

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- Distribute, remix, tweak, build upon
- No commercial use allowed!

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Attribution NoDerivs

- CC BY-ND
- Distribute
- Commercial use *allowed*
- Unchanged – no derivatives!
Attribution NonCommercial ShareAlike

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- Distribute, remix, tweak, build upon
- No commercial use allowed!
- License under identical CC terms

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- CC BY-NC-ND
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- No commercial use allowed!
- No changes to original work!

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Public Domain: CC0

Waive Applicable Rights

- Free to use for any purpose
- To extent allowed by applicable law
- No attribution or other terms
- Opt out of © protection

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Where can you find CC licensed works?

- Search feature on the CC website
  - [http://search.creativecommons.org/](http://search.creativecommons.org/)
    - Simply enter your search in the box, choose how you want to use the work, and choose where you search
    - Flickr, Google, Open Clip Art Library, YouTube, Wikimedia Commons, Google Images, Sound Cloud, etc.

- Research Guides
  - Harvard Law Library
    - [http://guides.library.harvard.edu/content.php?pid=500088&sid=4113929](http://guides.library.harvard.edu/content.php?pid=500088&sid=4113929)
  - UNT Center for Learning Enhancement, Assessment, and Redesign
    - [http://clear.unt.edu/copyright-locate-usable-works](http://clear.unt.edu/copyright-locate-usable-works)
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Please note that search.creativecommons.org is not a search engine, but rather offers convenient access to search services provided by other independent organizations. CC has no control over the results that are returned. Do not assume that the results displayed in this search portal are under a CC license. You should always verify that the work is actually under a CC license by following the link. Since there is no registration to use a CC license, CC has no way to determine what has and hasn’t been placed under the terms of a CC license. If you are in doubt you should contact the copyright holder directly, or try to contact the site where you found the content.
LibGuide helps users locate public domain and CC licensed images, audio, and videos

- Explains difference between public domain and CC
Locate public domain and CC licensed works

**Works in Multiple Formats**

- UNT Library resources
  - [http://www.library.unt.edu/research](http://www.library.unt.edu/research)
- Creative Commons Search
  - [http://search.creativecommons.org/](http://search.creativecommons.org/)
- Google Advanced Search
  - [https://support.google.com/websearch/answer/295987?hl=en](https://support.google.com/websearch/answer/295987?hl=en)
- Getty Search Gateway
  - [http://search.getty.edu/gateway/landing](http://search.getty.edu/gateway/landing)
- Southern Connecticut State University — Open Access Resources
  - [http://libguides.southernct.edu/content.php?pid=6963440&sid=515274](http://libguides.southernct.edu/content.php?pid=6963440&sid=515274)

**Text**

- Project Gutenberg
  - [http://gutenberg.org/wiki/Main_Page](http://gutenberg.org/wiki/Main_Page)

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**Unt CLEAR © Guide**

Locate public domain and CC licensed works

- Multiple formats
- Text (mostly eBooks and some teaching materials)
- Video
- Images
Advanced Google/Google images search:

- Not filtered by license
- Free to use or share: CC BY-NC-ND
- Free to use or share, even commercially: CC BY-ND
- Free to use share or modify: CC BY-NC
- Free to use share or modify, even commercially: CC BY
Many Flickr users have chosen to offer their work under a Creative Commons license, and you can browse or search through content under each type of license. Here are some recently added bits and pieces:

- **Attribution License**
  - From Christopher Michel
  - From ASCON
  - From sobreh
  - From sobreh
  - From sobreh
  - > 428,883 photos (See more)

- **Attribution-NoDerivs License**
  - From Gabletown
  - From dennis
  - From WisconsinKasKop
  - From Kaml H
  - From bernhard fleiss
  - > 512,872 photos (See more)

- **Attribution-NonCommercial-NoDerivs License**
  - From TH0byskyyan
  - From Demo Czar
  - From Andy E. Neyestom
  - From Bugdrober
  - From Du Family
  - > 434,536 photos (See more)

- **Attribution-NonCommercial License**
  - From sobreh
  - From sobreh
  - From sobreh

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**Flickr**

- Hundreds of thousands of photos per each license
- Search images by CC license type
- Explains each type of license
Most things you see online are protected by ©

Try to find and use works that are in the public domain or have CC licenses

Use copyrighted works by seeking permission or making a fair use of the works
  - Use a checklist or analysis tool to determine whether each use is fair

There are tons of resources out there that can help you with copyright questions…
  - And you can always contact me with questions (laura.mckinnon@unt.edu 940-565-3982)
Authors’ Rights
Prior to signing a publication agreement (and sometimes after), you own the exclusive rights to:

1. Reproduce;
2. Make derivatives;
3. Distribute;
4. Publicly perform;
5. Publicly display;

your work
Retain some or all of your rights!

- Determine which rights you want to retain *before* signing an agreement!
  - Do you want to be able to create derivatives?
  - Use your work in teaching activities?
  - Post your work to your personal website or to an open access repository?

- **READ** the author agreement!
  - Some agreements ask to you simply license certain rights to the publishers
  - Some allow you to retain certain rights
  - Many require you to transfer your copyright to the publisher
    - If this happens you have to then request permission to use your work in the future

- **Negotiate** to retain all or some of your rights with an author addenda!
Use an Author Addendum!

- There are lots of addenda for various disciplines – just do a search for “author addendum”

- A widely used version is from SPARC
  - Scholarly Publishing and Academic Resources Coalition

- You can also negotiate to apply a CC license to your work
Author retains: (i) the rights to reproduce, to distribute, to publicly perform, and to publicly display the Article in any medium for noncommercial purposes; (ii) the right to prepare derivative works from the Article; and (iii) the right to authorize others to make any non-commercial use of the Article so long as Author receives credit as author and the journal in which the Article has been published is cited as the source of first publication of the Article.

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Publisher policies on OA and copyright
Useful if you need to know what rights you retained
Though you should always keep a copy of your signed agreement!
Make finding your works easier: 
author IDs and profiles

- Author IDs and profiles make it easy for others to find your © works

- They can also be used as digital CVs

- There are several organizations that offer author IDs and profiles – we’ll take a look at ORCID
ORCID provides a persistent digital identifier that distinguishes you from every other researcher and, through integration in key research workflows such as manuscript and grant submission, supports automated linkages between you and your professional activities ensuring that your work is recognized.

“ORCID provides a persistent digital identifier that distinguishes you from every other researcher and, through integration in key research workflows such as manuscript and grant submission, supports automated linkages between you and your professional activities ensuring that your work is recognized.”

http://orcid.org/
ORCIDs

- ORCID = Open Researcher and Contributor ID
  - Addresses issues of:
    - Multiple scholars having the same or similar names
    - Inconsistent use of name abbreviations
    - Name changes
    - Cultural differences in name order

- ORCID provide a persistent identity for people
  - similar to DOIs (digital object identifiers), which provide a persistent identifier for works

Text adapted from ORCID by Wikipedia is licensed under CC BY-SA 3.0
Authors’ rights wrap-up

- Know what rights you have in your © works

- Determine which rights you want to retain before signing an agreement with a publisher

- READ the author agreement to see what you are agreeing to

- Negotiate to retain all or some of your rights with an author addenda

- Use and author ID or profile to better identify your works
Why Research Matters
Open Access Explained

[https://www.youtube.com/watch?v=L5rVH1KGBCY]

Digital Repositories

Disseminating your research:

- Subject/Disciplinary Repositories
- National Repositories
- Institutional Repositories
Digital Repositories

Common Goal:
- Storage
- Management
- Preservation
- Re-use and Access
Institutional Repositories

http://digital.library.unt.edu/scholarlyworks
Institutional Repositories

Types of research:

- Articles
- Papers
- Presentations
- Reports
- Posters
- Datasets

- Books
- Chapters
- Reviews
- Patents
- Artwork

- Your Research work
Institutional Repositories

Versions of Work (Please Save!):

- **Pre-Prints**: submitted, not peer-reviewed
- **Post-Prints**: accepted, peer-reviewed
- **Final PDFs**: published version
On the Solubility of Quercetin
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b Department of Chemistry, 1155 Union Circle Drive #305070, University of North Texas, Denton, TX 76203-5017, USA

Abstract:
There is a considerable disagreement over the solubility of quercetin in water. Experimental values of log \( C_w \) with \( C_w \) in mol/L range from ~ 2.52 to ~ 5.89, a difference of over three log units. We have applied a methodology based on linear free energy equations for water-solvent and gas-solvent partitions to study solubilities. These are related to partition coefficients through \( P_S = C_S/C_w \) where \( C_S \) and \( C_w \) are solubilities of a given solute in a solvent and in water. We find that known solubilities of quercetin in methanol and ethanol at 298 K and a known water-solvent partition coefficient can be accommodated in the same model if the water solubility at 298 K, as log \( C_w \), is taken as ~ 3.90, that is near to the middle of the range of experimental values. Our model successfully predicts solubilities of quercetin in water–ethanol mixtures near to the ethanol rich mixtures.

Keywords: Quercetin; Water-solvent partition coefficient; Gas-water partition coefficient; Solubility; Linear free energy relationships; Abraham descriptors
On the Solubility of Quercetin

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Department of Chemistry, 1155 Union Circle Drive #895070, University of North Texas,
Denton, TX 76203-5017, USA

ABSTRACT
There is considerable disagreement over the solubility of quercetin in water. Experimental values
of log $C_W$ with $C_W$ in mol/L, range from -2.52 to -5.89, a difference of over three log units. We
have applied a methodology based on linear free energy equations for water-solvent and gas-
solvent partitions to study solubilities. These are related to partition coefficients through $P_W =
\frac{C_W}{C_L}$ where $C_L$ and $C_W$ are solubilities of a given solute in a solvent and in water. We find
that known solubilities of quercetin in methanol and ethanol at 298 K and a known water-solvent
partition coefficient can be accommodated in the same model if the water solubility at 298 K, as
log $C_W$, is taken as -5.90, that is near to the middle of the range of experimental values. Our
model successfully predicts solubilities of quercetin in water-ethanol mixtures near to the ethanol
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Keywords:
Quercetin
Water-solvent partition coefficient
Gas-water partition coefficient
Solubility
Linear: Free Energy Relationships
Abraham descriptors

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On the solubility of quercetin

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Solubility
State-dependent equilibrium
AbInitio description

ABSTRACT

There is considerable disagreement over the solubility of quercetin in water. Experimental values of the solubility of quercetin in water are in the range 3.2 to 3.8 μg/mL, a difference of about one log unit. We have applied a methodology based on linear free energy relationships for water-soluble and gas-water partition properties to study solubilities. There are no related to partition coefficients through the Eq. (2) where C1 and C2 are solubilities of a given solute in a solvent and in water, so that log B0 = log C1 - log C2 is reported as the free energy of transfer of quercetin between water and air. It is known that water-solvent partition coefficients can be accommodated by the same model if the water solubility is 3.8 μg/mL and log C1 is taken as 1.10, but that is similar to the actual range of experimental values, that model is not able to predict the solubility of quercetin in water-solvent mixture near the ethanolic rich extremes. © 2014 Elsevier B.V. All rights reserved.

1. Introduction

It is known that quercetin (3,5,7,3’-tetramethyl-4’-hydroxyflavone) is a very sparingly soluble in water, but determinations of its actual solubility yield very different results. Allam et al. [1] have recently determined the variance measurements that have been made, and in Table 1, we list the results obtained in three different laboratories. Although these determinations vary by more than three log units, it seems almost impossible to make a selection that is equal to the solubility of quercetin in water. It seems of interest to apply this indirect method to the solubility of quercetin and to provide another value alongside for the estimation of the solubility.

2. Methodology

Our method is based on two linear free energy equations. Eq. (1) and (2). The determination variables, SR, consists of a series of values of some physicochemical property of a series of solvents in a given solvent system. In the present work, SR in Eq. (1) can be a water solvent partition, as log P1 of a series of solvents in a given water-solvent system SR = mE + nS + aR + bV1 + cV2 (1)

SR = mE + nS + aR + bV1 + cV2 (2)

The independent variables, or descriptors, in Eqs. (1) and (2) are properties of solvents as follows: E is an excess molar refraction in cm³ mol⁻¹, b is a constant density polarization descriptor, A is the overall solvent hydrogen bond ability, B is the overall hydrogen bond capacity, C is a McIlvain characteristic molecular volume in cm³ mol⁻¹ and L is the logarithm of the gas to water-unsolvated partition coefficient at 298 K. The use of coefficients, c, r, a, b, and c, is the determination of the system independent of multiple linear regression analysis. The descriptors in Eqs. (1) and (2) are obtained from known equations for water-solvent partition coefficients, and the property values of the corresponding descriptors in the solution.

The method has been described in considerable detail [1-5] and especially by Cruikshank and Moloney [4] who gave a number of specific examples. In order to apply the method to solubilities, C, the latter are converted into water-solvent partition coefficients through Eq. (1) where P1 is a water to solvent partition coefficient, C, is the total solubility in the solvent and C1 is the unsolvated solubility in water. Usually, solubilities are measured with dry solvents and so P1 in Eq. (1) will then refer to the (hypothetical) partition between water and a dry solvent.
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- Any format (e.g., PDF, Word, PPT, etc.)

Process:
- Confirm receiving your items
- Email you once items are uploaded
ETDs and Embargoes
Theses and dissertations represent a wealth of scholarly and artistic content created by masters and doctoral students in the degree-seeking process. In 1999, the University of North Texas was one of the first American universities to begin requiring electronic theses or dissertations (ETDs) for graduation. Some ETDs in this collection are restricted to use by the UNT community.
ETDs and Embargoes

Toulouse Graduate School Information:
https://tsgs.unt.edu/new-current-students/theses-and-dissertations

UNT ETD Collection
http://digital.library.unt.edu/explore/collections/UNTETD/

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Additional Resources

OpenAccess.unt.edu

www.library.unt.edu/Scholarly-Communications/

blogs.library.unt.edu/Scholarly-Communications/

www.library.unt.edu/Scholarly-Works
Questions?

http://www.library.unt.edu/scholarly-communications

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