

# NEW TECHNOLOGY AND LAW WORKSHOP ITM & GEDAI

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ITM - Leonardo-Campus 9  
Münster University/Germany

Further information:

[www.gedai.com.br](http://www.gedai.com.br)



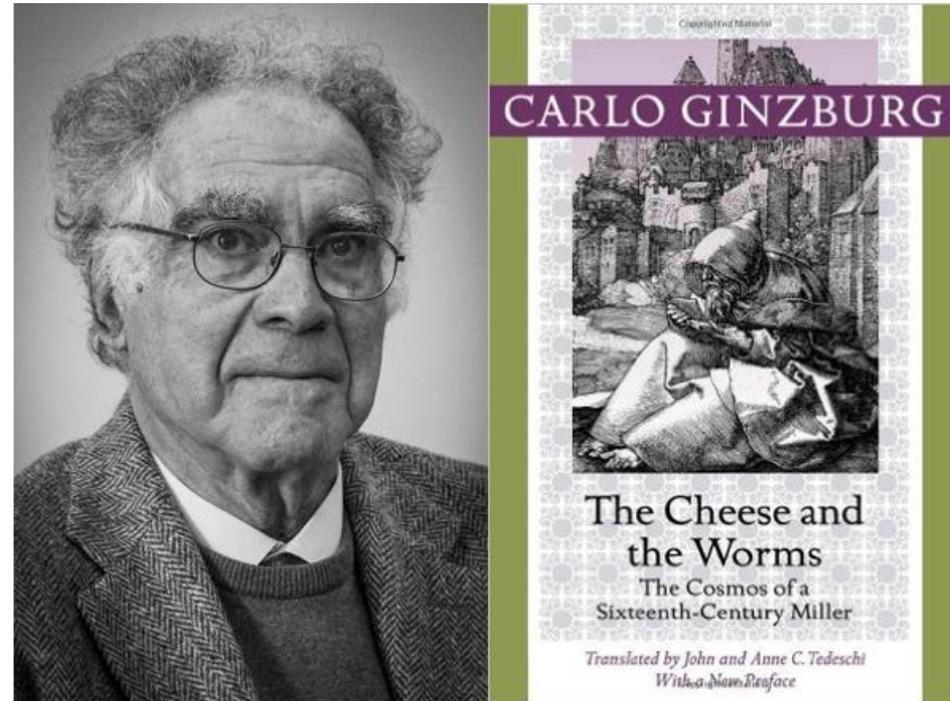
## Copyright and Public Domain of Information

Prof. Dr. Marcos Wachowicz





# Circulation of information



Historian Carlo Ginzburg – the extremely limited dynamics in the flow of ideas during the Middle Ages (a very incipient fashion);

Statements and trials performed by the Inquisition period;

Pre-industrial Europe – Renaissance ideas and Religious Reform.

## 2. EVOLUTION OF THE CONCEPT OF INFORMATION IN THE INFORMATION SOCIETY

- Limited access and use of information;
- Influence of knowledge about technology;
- The invention of moveable types by Gutenberg;
- New interferences are perceptible – the aim is to guide the behavior of information users;
- Information is no longer the mere access to rare written pieces of work, but the germ of new inventions, discoveries, transformations of all the economic, social and political sphere.



## 2. EVOLUTION OF THE CONCEPT OF INFORMATION IN THE INFORMATION SOCIETY

- A new concept of information emerged – new forms of control, storage and distribution of information;
- Information must be made available;
- Information has a cost, and it must be calculated.

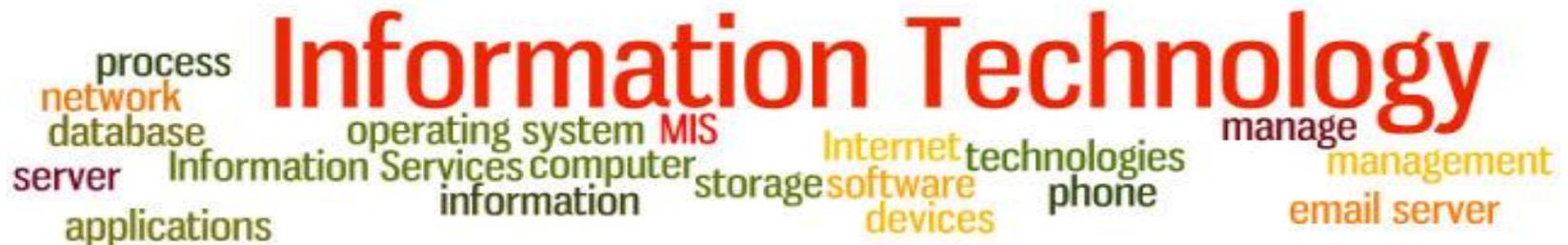


**INFORMATION  
TECHNOLOGY**

The graphic features a dark blue background with white and light blue icons and text. The central text 'INFORMATION TECHNOLOGY' is in a large, bold, white font. Surrounding it are various icons: a world map, gears, a puzzle piece, a speech bubble, a person silhouette, and a group of people. Text elements include 'FUNCTION', 'BUSINESS PLAN B', 'TEAM LEADER', 'BUSINESS', 'TEAM', 'Info', and 'THOUGHT ACCESS'.

### 3. INFORMATION AND PRODUCTION OF KNOWLEDGE

- Create exclusive right of the author;
- Direct custody of the Author's Right or the Industrial Right;
- Information is free and it can mean the communication of the idea and the information found in the contents of the intellectual good.





## B) Aesthetic Information

- Aesthetic, literary and scientific pieces of work have the custody of the Copyright Law – the creation of the spirit;
- If the aesthetic features of a certain piece of music or artwork are not subject to protection by the Copyright Law, the aesthetic information of the same intellectual goods will not be subject to protection either;
- For being rather free, the aesthetic information allows for the access to circulation, thus contributing to the culture of a people;
- Law 9610/98 – article 7.



## C) Scientific Information

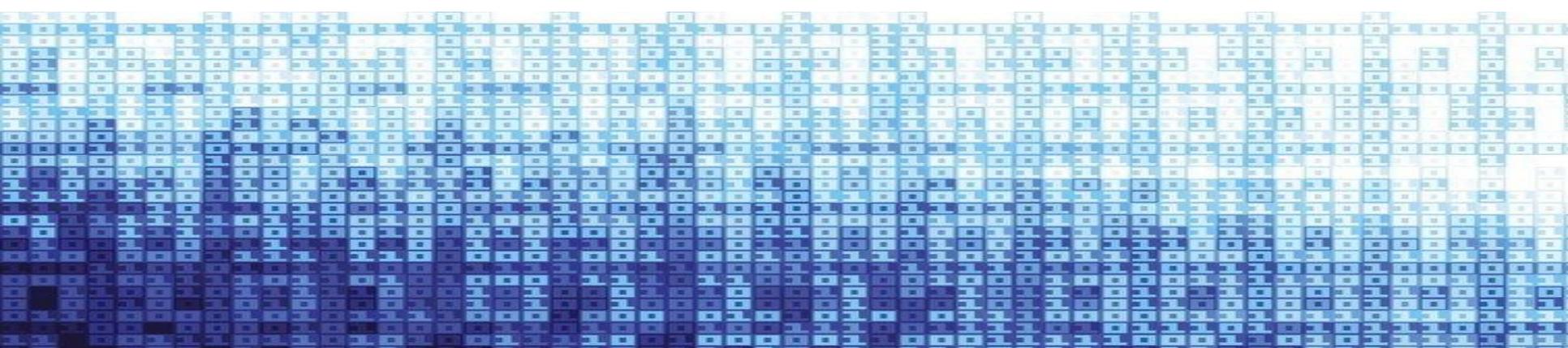
- Literary pieces aimed at science dispense any aesthetic characterization for the custody of the Copyright Law;
- The piece of work will be protected by the Copyright Law for being an expression of the author's idea;
- Scientific information will always have free circulation in order to fulfill its educational purposes, generate and stimulate the production of new knowledge.

**SCIENTIFIC**  
**INFORMATION**



## D) Digital Information

- Information Technology allowed for the dematerialization of literary, artistic and scientific pieces of work – binary codes “0” and “1”;
- The INTERNET – countless forms of storage and circulation of intellectual goods, no longer connected by physical means, but by a virtual and immaterial way.



## Creative Transformations



- **Creative transformation of image** – digital information of a shade of blue found in “Starry Night” by Vincent van Gogh, then recombined and contextualized in another piece of work completely different from it.
- **Creative transformation of sounds** – digital information of a timbre of an extract of Wolfgang Amadeus Mozart’s Requiem, in order to recombine it and add it to the timbre of a saxophone.

## 4. INFORMATION: ACCESS AND SHARED USE

- The Information Society poses a new technological paradigm that is organized from information;
- No need of previous request to use and share a piece of information;
- Sites, blogs, podcasts, Twitter, and others on the INTERNET;
- Pieces of information accessed through information networks with mobile access via *Wi-Fi* (*shared* by Bluetooth, RFID stickers) – a data-sharing environment never experienced by humanity before.

### Why Access Information?



## 5. INFORMATION AND DATABASES

- Sets of data processed and made available through informatics resources that keep a specific economic value;
- Databases hold huge amounts of information, offering advantages to those who access them: music catalogues and book catalogues;
- All the information compiled in it will have free flow.



## 5. INFORMATION AND DATABASES

- How can the Law protect such investment?



## 5. INFORMATION AND DATABASES

- Considering that all the pieces of information contained in databases are not appropriable, the Copyright Law would not offer them any protection;
- Though, if renewal and updating databases add value to them, the Copyright Law cannot give them custody – *ad infinito* protection;
- A database cannot be mistaken with any of the real works of art and the collections that belong to the museum itself;
- Copyright Law would not be useful for the custody of the economic interests arising from the creation of databases.

## 5. INFORMATION AND DATABASES

- **Free pieces of information** – data produced by the creator of the database itself (*res nullis* usable by all people, official texts freely used, decisions produced in tribunals);
- **Protected pieces** – the author's copyright of the original piece and its contents must be respected (granting of permission usually under payment);
- **Restricted pieces** – the information contained in the database is accessible only through previous consent by the author of the base.

## 6. INFORMATION AND PUBLIC DOMAIN

- Only about 200 years ago, after the exclusive copyright was created, the need for a conception arose;
- World Property Organization (WIPO) during the Paris Convention (1883) and the Berne Convention (1886) and exclusive rights over intellectual goods;
- An intellectual piece of work must no longer be under the exclusive appropriation of its creator or of any other person who holds its ownership – Public Domain.
- In Brazil, the works protected by Copyright that are in public domain:
  - (i) 70 years have gone after the death of the author as to patrimonial rights,
  - (ii) the dead authors have not left any heirs or successors,
  - (iii) the author is unknown (art. 45 of the Copyright Law – Law n. 9610/98).

## 6. INFORMATION AND PUBLIC DOMAIN

- Information Technologies allowed for other means and new forms of access to intellectual goods (book, sound, image, film, and the use of the contents of information derived from them);
- Large digitalization projects of whole bibliographic collections and museum collections – wide access;
- A virtual on-line visit over the computer with access to all the works of art that are being exhibited in a museum, for instance all the important paintings from the “Modern Art Week in Brazil”, in 1922.

SEMANA  
DE ARTE  
MODERNA



S. PAVLO  
1922

SEMANA  
DE ARTE  
MODERNA

S. PAVLO  
1922



SEMANA  
DE ARTE  
MODERNA



S. PAVLO  
1922

## 7. FINAL CONSIDERATIONS (i)

- Copyrighting is respected within the Rule of Law (Fundamental Rights of the Citizen, and the Declaration of the Human Rights);
- Freedom of access to information is a fundamental right in the Brazilian State (the Universal Declaration of Human Rights);
- The Information Society is grounded on the freedom of information to all people in favor of the spread of knowledge and culture;
- There will be an Information Society only if there is the guarantee of free access to information;
- An existing paradox – need for recurring to the principle of proportionality in order to alleviate collision with fundamental rights;
- An apparent conflict of fundamental rights: contents of information that are available in the world web are many times protected by copyright laws.

## 7. FINAL CONSIDERATIONS (ii)

- The current Information Society vs. the end of the XIX century – now everything is transformed in *bits* and *bytes*, everything is digital information;
- The new pieces of work incorporate basic digital information of the pre-existing pieces of work – recombination;
- Copyright Law must protect the intellectual good, but it cannot restrict the flow of information – Public Domain of our Society;
- Difference between intellectual good that has custody of the Copyright Law (grants exclusive rights of the author over the contents of the piece of work) from any other type of information is inherent to it.

## 7. FINAL CONSIDERATIONS (iii)

- Information belongs to the Public Domain – free flow to generate and accumulate social, cultural and economic values crucial for the development of our society;
- The Federal Constitution in Brazil guarantees the full exercise of right to information and culture;
- The legislation must guarantee access to the sources of culture and, provide the instruments of access to public domain goods;
- Human emancipation and free access to information – a historical achievement since the days of Gutenberg's mobile types;
- The advance of the Technologies of Information cannot be restricted or suppressed – the Medieval Times are absolutely overcome.



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