

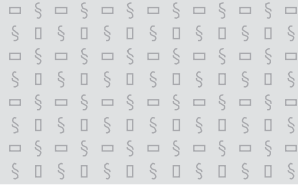
Licensing the Use of Grey Literature under the Czech Law



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Overview of the paper

Specific features of grey literature

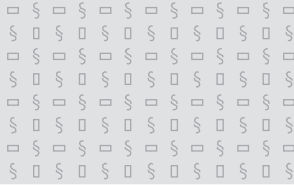
Categories of grey literature

Student works

Employment works

Contracted works





Specific features of grey literature

Growing importance (project-oriented funding of R&D)

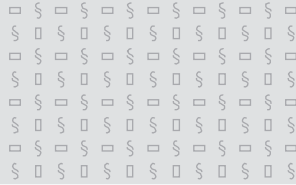
No conventional publication, no publisher

Different emphasis on copyrights

Mediated publication licensing (rarely by an author)

Implied licensing





Types of grey literature

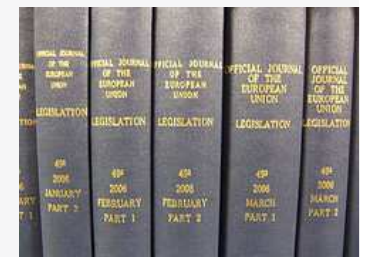
Fulfilling the conditions of various **study programmes** (namely at universities)

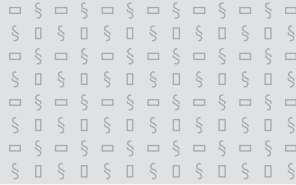
Reporting activities of academic institutions incl. the progress or outcomes of **research projects**

Confronting ideas within limited groups of specialists (namely at **conferences** or in the process of **drafting** various publications)

Defining **technical standards**

Fulfilling **legal obligations** (namely in bookkeeping and official reporting)





Types of grey literature

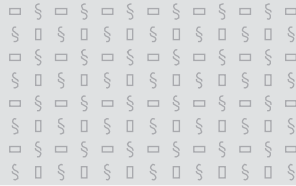
Falling outside of the scope of copyright law - either not of creative nature (accounting books, filled forms etc.) or official publications (texts of laws, decrees, judgments, etc.)

Student works

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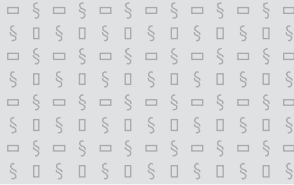




Student works

“A school or school or educational establishment shall have the right to conclude, under habitual terms, a license agreement on the utilization of a school work.”

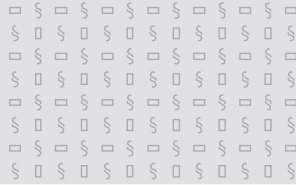
“Higher education institutions are obliged to make public, at no profit to themselves, the doctoral, Master’s, Bachelor’s and advanced Master’s (“rigorózní”) theses that have been defended at their institutions, including the readers’ reports and results of the defence. The institution will do this by making available a database of these theses.”



Employment works

“Unless agreed otherwise, the author's economic rights to a work created by the author in fulfilling his duties arising from the employment or civil service contract to the employer or from an employment relationship between a cooperative and its member (henceforth referred to as employee work) shall be exercised exclusively by the employer in his own name and on his own account.”

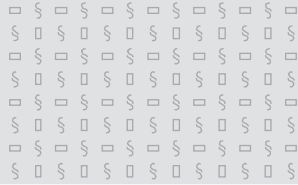
“The author's personal rights to an employee work shall remain unaffected. Where the employer exercises the economic rights to an employee work it shall be deemed, however, that the author has given his consent to the work being made public, altered, adapted including translation, joined with another work, included into a collective work and, unless agreed otherwise, also being introduced in public under the employer's name.”



Contracted works

“A work created on the basis of a contract for work (a work created to order) may be used by the person who ordered it only for the purpose defined by the contract. Unless stipulated otherwise by this Act, the customer shall be authorised to use the work in extension of such purpose only on the basis of a licence agreement.”

“Unless agreed otherwise, the author may use the work made to order himself and to grant a licence also to another party if this does not contravene the legitimate interests of the customer.”



Conclusions

Landmines - general licensing / particular parts (know-how, trade secrets, partial licensing, ...)

General principles of copyright - unified, but...

Special provisions, namely implied licensing - specific (school works)

Free licensing - specific

Hard cases - missing case-law on complex issues

No plaintiff, no judge (how long)

Impossibility of universal cross-border solution