

Role of Licensing in Geoinformation Information Management

International Workshop on Legal and Policy Frameworks for Geospatial Information

Objectives

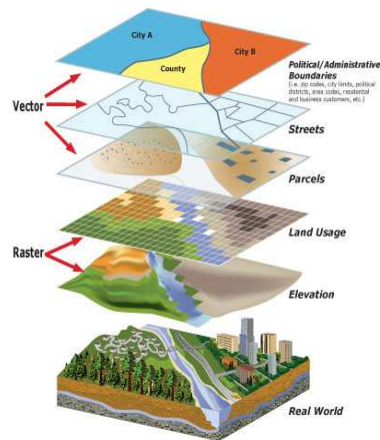
- The Structure and Purpose of Geospatial Information License Agreements

Why Issue is Important?

Geospatial products and services are increasingly be developed using data from a variety of sources

- Government
- Industry
- Crowd

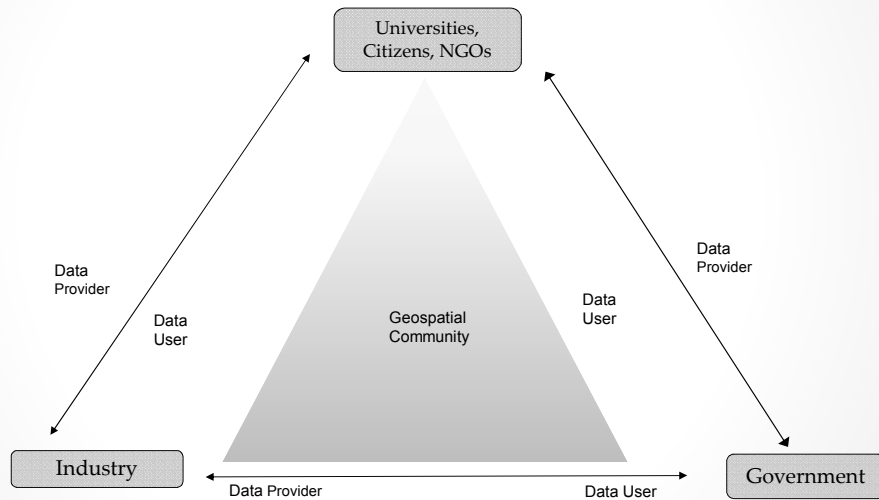
Each are subject to their own licenses/data sharing agreements with varying terms/restrictions



Geospatial Community

- An international ecosystem that collects/uses/stores/distributes geoinformation.
 - Cuts across technology platforms, industry groups and user communities.
- All segments of community are contributing to the ecosystem's growth
- Products and services increasingly being developed based upon aggregation of all types of data collected from diverse sources.

And Creating A New Geospatial Ecosystem



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Licensing Increases Complexity

- A number of legal issues arise around the licensing of geospatial information, including:
 - Privacy
 - Intellectual Property
 - National Security
 - Open Data
 - Liability
- Issues may change depending upon type of data, how it is used and who uses it, but each of the issues must be considered.
- Becomes even more complex in international transactions.

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Theory of Geospatial Information Aggregation

$$X = (A*B)C^2$$

Where:

X= complexity of aggregation

A = number of data sets

B = number of different legal systems involved

C = number of parties removed from original data source

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Uncertainty Causes Friction

- Policy/legal communities don't understand geospatial technology, geoinformation, and/or the geospatial community.
- When lawyers don't understand the technology or the use and the law is unclear, it is easier to say no than yes.

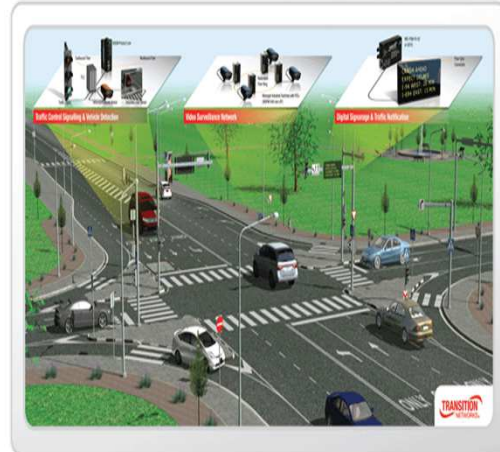
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Challenge Will Grow As New Technologies and Applications Develop

Laws/policies being developed concerning nontraditional geospatial technologies and applications that will impact geocommunity:

- Uber
- Crowdsourcing
- Autonomous Vehicles/Smart Grids/Smart Cities
- Wearable Technology
- Internet of Things



Geospatial Community Will Need to “Share” Geoinformation with New Communities

- Developing around Big Data
 - Smart Cities
 - Smart Grid
 - Intelligent Transportation Systems
 - Autonomous Vehicles
 - Internet of Things
 - Open Data Communities
 - Business Intelligence
 - Internet of Things
- Each have their own language, own concerns, motivations, etc.
- Subject to their own regulation, legal framework

Considerations In Negotiating License Agreement

- Types of Data
- Copyright Issues
 - Data
 - Maps
- Data Quality
- Liability Risks
- Privacy
- Open Records/Freedom of Information

Licenses

- 1. **Describe What is Being Licensed**
- 2. Define Rights in Intellectual Property
- 3 Define Use Rights
- 4. Set Forth Payment Terms
- 5. Allocate Risks
 - Representations and Warranties;
 - Covenants
 - Indemnification
 - Data quality, compliance with laws, injuries to third parties
- 6. Identify Applicable Law and Other Technical Legal Issues

What Is Being Licensed?

- It is important to accurately describe what is being licensed:
 - Imagery (raw or processed)
 - Data – GPS, addresses, lat/longs, database, etc.
 - Metadata
- Pay attention to defined terms (capitalized)
- Helpful to also describe what is NOT being licensed

Other Considerations: MetaData

- A set of data that describes and gives information about other data
 - Sensor type, location
 - Time of collection, duration of collection
 - Quality
 - Use restrictions
- Great importance to geospatial information.
 - Fitness of Use
- What is geospatial information metadata from a legal standpoint?
 - Part of product/service?
 - Documentation?
- How is it accounted for in legal documents?
 - In description of what is being licensed?
 - In representations and warranties?
 - In indemnification language?

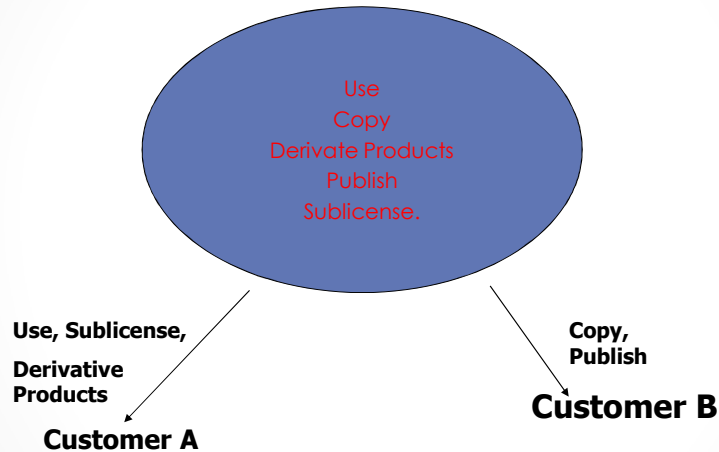
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Step 2: What Rights are Being Licensed?

- What rights are being granted?
 - Copy
 - Use
 - Publish
 - Create Derivative Works
 - Other
- What rights are being retained?
 - Recommend including these in license to avoid confusion

Bundle of Ownership Rights



Other Considerations: Derivative Products

- What constitutes a derivative geospatial information product?
- If important, consider defining in license agreement
- Make sure rights to create derivative products conforms with supplier agreements (if any)

Intellectual Property Rights: Copyright

Facts not copyrightable.

Use Rights

- Duration of Grant
- Exclusivity
- Commercial vs. Non-commercial
- Territory
- Form (hard copy, digital vector data, etc.)

Any Restrictions on Rights?

- Prohibition on certain customers
- Prohibitions on certain uses
 - Navigation
 - Measurement
 - Not valid after certain period of time
 - Other foreseeable uses



Never Know How Data Will Be Used

- i.e. Twitter Maps



Failure to Address Increases Risks

Risk Goes Two Ways:

1. Risk of Harm to other party or to third party
Liability
2. Risk of Harm to You
Damages



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Payment

- Cash
 - Immediate
 - Over-time
 - Royalty
- Currency?
- In-kind
 - Services
 - Data

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Representations and Warranties

- Standard Contractual
 - Organization
 - Ownership
- Other Contractual
 - Accuracy
 - Timeliness
 - Completeness
- Uniform Commercial Code
 - Merchantability
 - Fitness For Use

Representations and Warranties

(cont'd)

- Confirm what they apply to:
 - Imagery
 - Data
 - Metadata
 - Other?

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Termination Rights

- Breach of Agreement
 - Payment
 - Representations and warranties
 - Covenants
 - Use of data
- Cure Period?
- Bankruptcy
- Change in Ownership
- Duties upon termination

Other Terms To Consider

- Right to audit customers
 - Minimize risk, maximize value
- Compliance with laws
 - Consider specifying certain laws
 - Export
 - Privacy
 - Licenses and regulations
- Cyberinsurance
- Prohibitions on certain uses
 - Navigation
 - Measurement
 - Consumer products
 - Other foreseeable uses

Miscellaneous Provisions

Law Is Still Tied to Territory

- Which jurisdiction's laws apply?**
- Where will proceedings take place?**
- Arbitration? Mediation?**
- Force Majeure**
- Assignment**
- Compliance with Laws**
- Insurance**



Discussion Items

- What challenges does your organization face in licensing geospatial information (as licensor and as licensee)?

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