Copyright & Author Rights for Graduate Students

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Fall 2019

Outcomes:

- ✓ Understand copyright basics
- ✓ Know what copyrighted content you can use in your work without seeking permission
- ✓ Know what copyrighted content you can use in your teaching without seeking permission
- ✓ Know how to seek permission
- ✓ Know your rights as an author (thesis/dissertation or other publication)

✓ Copyright Basics

- Copyright is a **limited** form of **protection** provided by the laws of the United States to the authors of "**original works of authorship**" that are **fixed** in a tangible form of expression.[1]
  - Purpose: To promote the progress of science and the useful arts.

NOTE: Copyright is just one of the protections for **Intellectual Property: Trademarks** and **Patents** are others.

Exclusive Rights of Copyright Owners

- Reproduction → Make copies in any medium
- Creation of derivative works → Translations, adaptations (books, articles)
- Distribution → Distribute to the public – sell, rent, lend
- Public performance/display → Generally for creative works
- Grant permission for others to use

This includes parts or all of a work

Note:

- Exclusive rights are limited:
  - Generally, at least the author's life plus 70 years from the author's death
  - Copyright can be renewed
- Copyright can be transferred
- There are some exceptions to the exclusive rights (eg, fair use)

- Copyright is Automatic:
  - The moment an original expression of the author becomes fixed in a tangible medium, the author has exclusive rights.
  - © symbol is not necessary (since 1989)
  - You are not required to register your copyright

What is not protected by copyright?

- Ideas are not protected
- Facts are not protected

*Copyright protects **original works** of authorship that are **fixed** in a tangible form of expression.*

- Ideas, procedures, methods, systems, processes, concepts, principles, or discoveries
- Works that are not fixed in a tangible form (such as a choreographic work that has not been notated or recorded or an improvisational speech that has not been written down)
- Titles, names, short phrases, and slogans
- Familiar symbols or designs
- Mere listings of ingredients or contents [1]

Questions

1. Is this powerpoint covered by copyright?
2. Will your thesis/dissertation be covered by copyright?
3. Are your class notes and drafts of your papers covered by copyright?
4. Is a photo you posted on Facebook covered?

Know what copyrighted content you can use in your work without permission

You do not need to seek permission if …

- The material cannot be copyrighted
- You merely link to it
- The material is in the **Public Domain**
- The material is openly licensed – **Creative Commons**
- Your use can be considered **Fair Use**

But you must always cite your source.

Public Domain

= works that are either no longer protected by copyright or never were

1. Generic information, such as facts, numbers and ideas
2. Works whose copyrights have expired or were not renewed (applies to works created before 1978)
   - All works first published in the United States prior to 1923
   - Works from1923-1963 whose copyright registrations were not renewed
3. Works created prior to March 1989 that failed to include a proper notice of copyright
4. Works created by the U.S. federal government[2]

Just because something is on the Internet, doesn't mean it's public domain

Resources:

- Is it covered by copyright? Copyright Genie
- See Copyright Term and the Public Domain in the United States (Cornell University Library)

Check the Terms of Use and Licensing

- Some copyrighted materials will specify how they can be used in a "Terms of Use" or "Terms and Conditions" or "Use Policies" etc

Example: Can be used for educational purposes without permission

Note: This is ok for thesis/dissertation, but not if you're going to publish it.

Licensing

- **Enables the author to assign licensing: free use, sharing, re-mixing**
- Creative Commons is
  - a non-profit organization
  - a movement to simplify the use and reuse of original work protected by copyright law

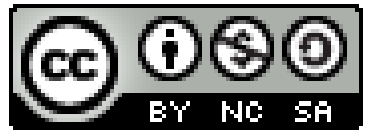
CC License Conditions

- Attribution (by)
- ShareAlike (sa)
- NonCommercial (nc)
- NoDerivatives (nd)

Six possible configurations.

Most accommodating:

Allows distribution, remixing, editing, etc, but you must give the author/creator credit.



Most restrictive:

User must credit the author/creator, cannot make money from it, and cannot change in any way.

Google Images

Fair Use

- Allows others to use copyrighted works without the permission of the copyright holder – limited portions, for limited use, for limited purposes
  - "… for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research, is not an infringement of copyright. In determining whether the use made of a work in any particular case is a fair use the factors to be considered …"

Just because it's for education doesn't mean it's a "fair use".

Four Factors of Fair Use

1. The purpose and character of the use
2. The nature of the copyrighted work
3. The amount and substantiality of the work
4. The effect of the use on the potential market for or the value of the work

- Use the Fair Use checklist

- Resources:
  - Fair Use Evaluator
  - Columbia University Libraries - Fair Use
  - University of Michigan – Fair Use

Questions

- Do I need permission to use …
  - an image from Google Images?
  - tables, figures, images from other publications?
  - an article I published?

What applies to instructional uses

- Everything above

Face-to-face classroom instruction VS online instruction

1. Is it copyright-protected?
2. Is it public domain?
3. Is it open licensed? Does the library have a license?
4. Is it fair use?

In-class Instruction

Must be clear connection to pedagogical purpose.

Must be fair use.

- Photocopies: ok to provide copy to each student for review, commentary, analysis
  - Never ok to use “consumable” works such as workbooks, exercises, tests
  - Never ok to copy an entire book
- Video or audio (legal copy): ok to show all

TEACH Act:

"Technology, Education and Copyright Harmonization Act"

- Provides guidelines for interpreting fair use in regard to online programs such as Blackboard
- Allows the digitizing of analog or print works, but in most cases only if the work is not already available in digital form
- Rights of use are also often limited to certain works, in limited portions, and only under rigorously defined conditions

Online Instruction

- Limited portions allowed, not full work.
- Copies: Link to library copy rather than posting copy
  - For books, use RESERVE
- Video: Link to library copy (eg, Kanopy, Academic Video)
  - Embed or link to (legitimate) YouTube copy
  - Show only “reasonable” portion

Questions

1. Can you download copyright protected images and place them in Blackboard?
2. Can you scan your own copy of a short story and place it in Blackboard
3. Can you download pdf or html articles from the library's databases and place them on Blackboard?
4. Can you show a full-length video in a classroom?
   - In a televised classroom?

Consult **Copyright and Copywrong FAQ**

- Resources
  - **Exceptions for Instructors** ("to find out if your intended use meets the requirements set out in the law")
  - Duke University: **Copyright Exceptions for Teaching**
  - Louisiana State University: **TEACH Act Toolkit**

When to Seek Permission

- You want to use the work for commercial purposes
- When you want to use the entire work
- When your use does not fall under Fair Use

If in doubt, seek permission

How to Seek Permission

Find out who owns the copyright – contact them directly

- Ask permission in writing – can be email
- Save it

If you can't find the owner:

- Copyright office has online catalog of copyrighted materials since 1978
- Consider using the Copyright Clearance Center

- Silence is not permission
- Plan ahead
  - If you want to re-publish later, get permission now
- It's not enough to just provide a citation…

- Resources:
  - University of Connecticut: Permission Needed?

✓ Know your rights as an author (thesis/dissertation or other publication)

- You own the copyright to your thesis/dissertation – not ODU
  - You are required to upload it to ProQuest and sign agreement
  - You are required to have it posted in ODU Digital Commons and sign agreement
- But you still have exclusive rights

Issue: Register Copyright?

- Not necessary, but….
- Unless you anticipate your work will be a high-value project
- Unless you think there could be a legal dispute
  - Plagiarism
  - Essay mill
- $35 to Copyright Office OR $55 to ProQuest

Embargo?

Should you embargo it since it will be openly available in Digital Commons?

- Reasons:
  - Patent pending
  - Plans to publish
  - Creative work

Author rights for other publications

- You will need to sign a publishing agreement – **Read Carefully**
  - Publishers may want you to transfer your copyright
- Rights you may lose:
  - Post the work to your own web site or your institutional repository
  - Copy the work for distribution to students
  - Use the work as the basis for future articles or other works
  - Give permission for the work to be used in future courses
  - Grant permission to faculty and students at other universities to use the material

Options

You don’t need to transfer your exclusive rights to a publisher

1. Retain some of your rights
2. Edit the agreement
3. Submit an automatically-generated Author Addendum (SPARC)

- Resources
  - SPARC (the Scholarly Publishing and Academic Resources Coalition). Author Rights & the SPARC Author Addendum
  - University of California: Managing Copyright & Negotiating Publishing Agreements
  - Old Dominion University: Copyright & Author Rights

NOTE: Attribution

- Assume all content, regardless of format, publication status, or absence of a copyright notice is copyrighted.
- Proper attribution is necessary. It does *not* mean you can use any amount of any work as long as attribution is given.
- Always cite and link to your sources
- So others can find them
- To avoid plagiarism

Resources

- U.S. Copyright Office: copyright.gov
  - Compendium of U.S. Copyright Office Practices
  - Frequently asked questions about copyright
- UT Copyright Crash Course: Copyright Tutorial
- Kenneth D. Crews, Copyright and Your Dissertation or Thesis: Ownership, Fair Use, and Your Rights and Responsibilities

Attribution

- Much of the information in this presentation was adapted from UC Berkeley "Copyright in Publishing Your Dissertation"

- 1 U.S. Copyright Office Circular 1
- 2 Copyright Clearance Center: https://www.copyright.com/learn/about-copyright/