

# COPYRIGHT, FAIR USE, AND YOU



HOW TO LEGALLY AND ETHICALLY USE PUBLISHED  
MATERIALS FOR EDUCATIONAL PURPOSES

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# A Little History



“Copyright has grown from a legal concept regulating copying rights in the publishing of books and maps to one with a significant effect on nearly every modern industry, covering such items as sound recordings, films, photographs, software, and architectural works.”

[http://en.wikipedia.org/wiki/History\\_of\\_copyright](http://en.wikipedia.org/wiki/History_of_copyright)

# What is Copyright?



The author/s of “original works of authorship,” including literary, dramatic, musical, artistic, and certain other intellectual works, is/are granted the *exclusive* right to reproduce, distribute copies of, publicly perform or publicly display the work, or to prepare derivative works based upon the work.

# Modern U.S. Copyright Legislation



- Copyright Act of 1976.
- Sonny Bono Copyright Term Extension Act.
- Digital Millennium Copyright Act.
- Family Entertainment and Copyright Act.

[http://en.wikipedia.org/wiki/History\\_of\\_copyright#Modern\\_US\\_copyright\\_legislation](http://en.wikipedia.org/wiki/History_of_copyright#Modern_US_copyright_legislation)

# Copy Rights



- To reproduce the work in copies or phonorecords;
- To prepare derivative works based upon the work;
- To distribute copies to the public by sale or rental;
- To perform the work publicly;
- To display the work publicly; and
- In the case of sound recordings, to perform the work publicly by means of a digital audio transmission.

# What Works Are Protected?



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

# What is Not Protected?



- Works not fixed in tangible form of expression
- Titles, names, short phrases, and slogans; familiar symbols or designs; mere variations of typographic ornamentation, lettering or coloring; mere listings of ingredients or contents
- Ideas, procedures, methods, systems, processes, concepts, principles, discoveries, or devices, as distinguished from a description, explanation, or illustration
- Works consisting entirely of information that is common property and containing no original authorship

# Works Made For Hire



- A work prepared by an employee within the scope of his or her employment; or
- A work specially ordered or commissioned for use as:
  - A contribution to a collective work
  - A part of a motion picture or other audiovisual work
  - A translation
  - A supplementary work
  - A compilation
  - An instructional text
  - A text
  - Answer material for a test
  - An atlas



# Copyright Lasts How Long?



- Works created on or after January 1, 1978, are automatically protected from the moment of creation until 70 years after the death of the creator.
- Works with joint authorship have terms that last 70 years beyond the death of the last surviving author.
- Works made for hire, and for anonymous and pseudonymous works, duration of copyright is 95 years from publication or 120 from creation, whichever is shorter.

# Fair Use



“The fair use of a copyrighted work...for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research, is not an infringement of copyright.” Section 107 or title 17, *United States Code*

# Factors For Determining Fair Use



- The purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes;
- The nature of the copyrighted work;
- The amount and substantiality of the portion used in relation to the copyrighted work as a whole; and
- The effect of the use upon the potential market for or value of the copyrighted work.

# Important Concepts Determining Fair Use



- Brevity
- Spontaneity
- Cumulative Effect

The purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes

# The nature of the copyrighted work

The amount and substantiality of the portion used in relation to the copyrighted work as a whole

The effect of the use upon the potential market for or value of the copyrighted work



# Prohibitions For Teacher and Classroom Use



- Copying shall not be used to create or to replace or substitute for anthologies, compilations or collective works.
- There shall be no copying of or from works intended to be “consumable” in the course of study or of teaching.
- Copying shall not:
  - Substitute for the purchase of books, publishers’ reprints or periodicals;
  - Be directed by higher authority;
  - Be repeated with respect to the same item by the same teacher from term to term.
- No charge shall be made to the student beyond the actual cost of the photocopying.

# Creative Commons



- Provides a contemporary solution for a networked, collaborative world.
- Works to revive balance, compromise, and moderation — once the driving forces of a copyright system that valued innovation and protection equally.
- Provides free tools that let authors, scientists, artists, and educators easily mark their creative work with the freedoms they want it to carry.
- Defines the spectrum of possibilities between full copyright — *all rights reserved* — and the public domain — *no rights reserved*.
- Creator/Author keeps his/her copyright while inviting certain uses of the work — a **“some rights reserved” copyright**.

# Creative Commons I



- Creative Commons licenses are expressed in three different formats:
  - the Commons Deed (human-readable code): example <http://creativecommons.org/licenses/by/3.0/>
  - the Legal Code (lawyer-readable code): example <http://creativecommons.org/licenses/by/3.0/legalcode>
  - the metadata (machine readable code): example [http://creativecommons.org/license/results-one?license\\_code=by](http://creativecommons.org/license/results-one?license_code=by)

# Creative Commons Continued II



- Creative Commons licenses give you the ability to dictate how others may exercise your copyright rights—such as the right of others to copy your work, make derivative works or adaptations of your work, to distribute your work and/or make money from your work. They do not give you the ability to restrict anything that is otherwise permitted by exceptions or limitations to copyright—including, importantly, fair use or fair dealing—nor do they give you the ability to control anything that is not protected by copyright law, such as facts and ideas.

# Creative Commons Continued III



- The key terms of the core suite of Creative Commons licenses are: Attribution, NonCommercial, NoDerivatives and ShareAlike:

Attribution=you must attribute the author and/or licensor in the manner they require.

NonCommercial=you may not use the work in a manner primarily directed toward commercial advantage or private monetary compensation.

NoDerivatives=you may only make verbatim copies of the work, you may not adapt or change it.

ShareAlike=you may only make derivative works if you license them under the same Creative Commons license terms.

# Creative Commons Continued IV



- If you come across a work that says it is made available under a Creative Commons license, you are authorized by the licensor to use it consistent with those license terms. You should satisfy yourself that the scope of the license covers your intended uses. Since there are a number of versions of the Creative Commons licenses, you should read the particular license carefully to ensure that the license meets your needs. All Creative Commons licenses require that you attribute the author, licensor and/or any other parties specified by the author/licensor. To correctly use a Creative Commons licensed work, you must provide proper attribution.

# Under the Creative Commons License



## Library

- Public Library of Science -- <http://www.plos.org/>

## Image

- Nomads' Land - Stock photos by outdoor photographer Jeff Maion -- <http://www.maion.com/photography/>

## Video

- MOD Films -- <http://modfilms.com/>

## Education

- Light and Matter; Physics and Astronomy Resources -- <http://www.lightandmatter.com/area1.html>
- Connexions -- <http://cnx.org/content/>

# Copyright Tutorials



- U.S. Copyright Office <http://www.copyright.gov/>
- Crash Course in Copyright (University of Texas)  
<http://www.utsystem.edu/ogc/intellectualproperty/cprtindx.htm>
- Copyright Use (North Carolina State University)  
<http://www.lib.ncsu.edu/scc/tutorial/copyuse/index.html>
- A Visit to Copyright Bay (St. Francis University)  
<http://www.stfrancis.edu/cid/copyrightbay/>