Can I Use That?
Fair Use for Teaching

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Copyright Law in a Nutshell

• Copyright – federal law

• Protects original works that are fixed in any tangible medium of expression (e.g. books, articles, music, movies, software, web pages).

• Author/Creator holds several exclusive rights, including the right to copy and disseminate, to create derivative works, and to publicly display.

• Since 1989 - no requirement of publication, registration or inclusion of the © symbol.

• Copyright Duration
  – “Public Domain” = expired copyright
  Cornell Public Domain Chart
  [http://copyright.cornell.edu/resources/publicdomain.cfm]
Copyright: Exceptions for Teaching

- **Face to Face Teaching (§ 110(1))**
  - Allows performance or display, without permission, of copyrighted works during *face-to-face instruction*.
  - This exception does not provide for copying or distribution of copyrighted works.

- **TEACH Act (§ 110(2))**
  - Allows digital display and performance of copyrighted works in *online classes (NOT MOOCs)* without permission under *very limited* circumstances.

- **Fair Use (§ 107) – PREFERRED!**
  - Permits use and reproduction of copyrighted works where purpose of such use is criticism, comment, news reporting, scholarship, research, or education and where the balance of four separate factors weighs in favor of such use
  - Applies to all forms of teaching – in class, online, MOOCs

What is Fair Use?

- Exemption from the exclusive rights of a copyright holder
- Educational Use ≠ Fair Use…but…

Educational Use Tips Balance in Favor of Fair Use

Fair Use Checklist
http://ufdc.ufl.edu/IR00003647/00001
Four Factors of Fair Use

Purpose and Character of the Use
- Exclusive Rights
- Mere Reproduction
- Commercial
- Access
- Transformative
- Educational

Nature of the Work
- Exclusive Rights
- Technical
- Artistic or Creative
- Factual

Amount of Work Used
- Exclusive Rights
- Small Quanity
- "Short of the Merit"
- Not Approved
- Ready Market or Form
- "Option" work

Effect on the Market
- Exclusive Rights
- No unfair commercial market

No single factor is determinative – rather, the factors in aggregate should weigh toward fairness.
Exclusive Rights  
Fair Use  
No viable commercial market  
"Orphan work"  

Effect on the Market

Copyright and Contracts

Digital or Electronic Resources (databases, e-journals, MP3s) – License Agreement or Terms of Use controls how content may be used, even if proposed use is fair use.
Using Copyrighted Works: Text (books, articles, etc)

• May photocopy reasonable quantities of print works for distribution in class – **guidelines are NOT the law**
• May include quotes in lecture slides
• Use a link to the work whenever possible
  o Use Course Reserves – fair use analysis and permissions done for you!
  o URLs not copyrighted
  o License/contract restrictions
  o eLearning – posting materials yourself – conduct fair use analysis and be mindful of possible restrictions
• Look for public domain, open access, or freely licensed (Creative Commons) works

Using Copyrighted Works: Movies and Music

• May perform or display entire works in a face to face teaching setting.
• May embed short clips into lecture slides
• Be wary of YouTube (or any potentially illegal copy)
• Be mindful of licenses/terms of use of digital copies
• Only reasonable and limited portions of dramatic works (e.g. movies) may be digitized and streamed
• Link to free, legal streaming or university licensed content
• Encourage students to make use of legal streaming services (e.g. Netflix, Amazon, etc)
• Guide to Showing Films in Class and on Campus - [http://guides.uflib.ufl.edu/copyright/video](http://guides.uflib.ufl.edu/copyright/video)
Using Copyrighted Works: Images

- Image source – legal copy? Google Image Search?
- Charts/Graphs
  - Copyrighted?
  - Reproduction in own hand
- Look for alternatives
  - Creative Commons search
    - http://search.creativecommons.org
  - Public Domain Images
    - Library of Congress American Memory Collection
      (http://memory.loc.gov/ammem/browse/ListSome.php?format=Photograph)
    - Public Domain Sherpa

Questions?

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- Resources:
  - Website: http://guides.uflib.ufl.edu/copyright
  - Twitter: campuscopyright & UFScholComm