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Online Learning & Copyright

Michael Priehs

Wayne State University, du6365@wayne.edu

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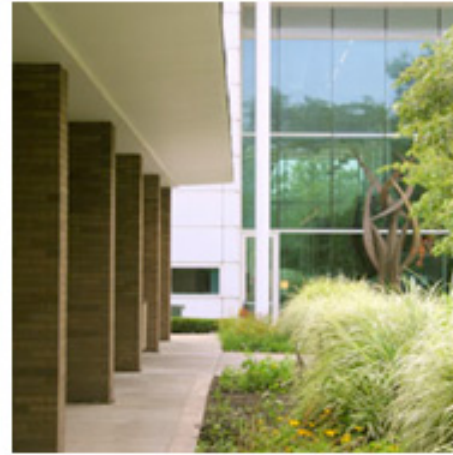
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Online Learning & Copyright

Michael Priehs

Coordinator for Scholarly Communications & Copyright

WAYNE STATE
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LIBRARY SYSTEM



Outline

- Practical Concepts:
 - Copyright
 - Public Domain
 - Fair Use
- Course Content and Copyright
- Obtaining, Posting and Managing Online Course Content

What is copyright?

- A set of laws designed to give creators a package of rights over their original works of authorship
 - Create a derivative work or translations
 - Reproduce the work in copies
 - Distribute copies
 - Perform or display publically and digitally
 - Authorize others to exercise any of these rights

What does it do?

- Protects and balances the rights of author and public
- Provides a legal framework that associates creative works as unique, intellectual property with commercial value
 - Affects one's ability to capitalize on the product of one's own intellect
 - Provides a legal framework to recuperate damages in cases of infringement
 - Provides an outline of acceptable methods of using protected works for many purposes

What does copyright cover?

What does it not cover?

- Safe to think copyright protects almost everything!

(with these exceptions)

- Works not fixed in a tangible form
- Ideas, facts or data
- Titles, names, slogans
- Works of the U.S. Government
- Works in the Public Domain

Public Domain

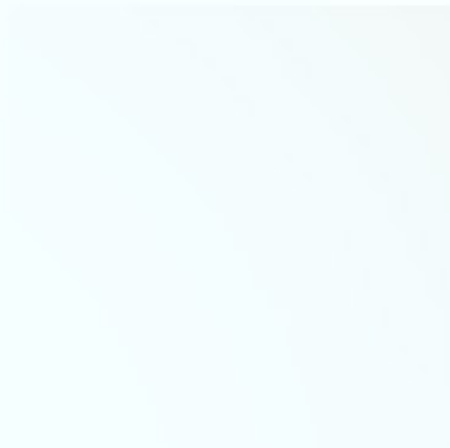
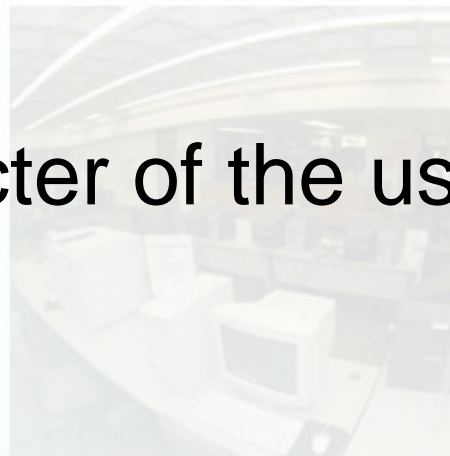
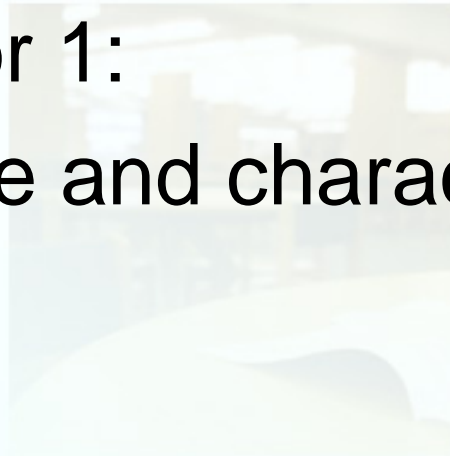
- Works created in certain time periods are no longer protected by copyright
 - Published prior to 1923
 - Published between 1923 and 1963 without copyright notice
 - Published between 1923 and 1963 with copyright notice on work and not renewed
 - » Check www.copyright.gov to see if works are registered. Renewed works will be registered. However, not all renewal records are available electronically.

What is Fair Use?

- Fair Use is a statute within copyright law that allows certain uses of protected materials without seeking permission from the rights-holder
 - Uses such as commentary, criticism, news reporting, teaching, research, etc.
- Fair Use is not a right, it is a defense made in court against a charge of infringement
- Each use must be analyzed case-by-case

Fair Use Analysis

- Factor 1:
Purpose and character of the use



Fair Use Analysis

- Factor 1:

Purpose and character of the use

- Is the use *transformative*?

- Will the intended use result in a verbatim copy or in the creation of something new
 - Copy made as a result of research for a review or commentary would be considered fair use
 - Scan of an illustration taken to later print and frame would be considered infringement

Fair Use Analysis

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One criterion is insufficient to decide whether or not the use is fair!

Fair Use Analysis

- Factor 1:
Purpose and character of the use
- Factor 2:
Nature of the copyrighted work

Fair Use Analysis

- Factor 1:
Purpose and character of the use
- Factor 2:
Nature of the copyrighted work
 - Creative vs. factual content.
 - Is it consumable?
 - Is the copy from a published or unpublished source

Fair Use Analysis

- Factor 1:
Purpose and character of the use
- Factor 2:
Nature of the copyrighted work
- **Factor 3:**
Amount and substantiality of portion used

Fair Use Analysis

- Factor 1:
Purpose and character of the use
- Factor 2:
Nature of the copyrighted work

- **Factor 3:**

Amount and substantiality of portion used
– Entire work or excerpt? Heart of the work?

Fair Use Analysis

- Factor 1:
Purpose and character of the use
- Factor 2:
Nature of the copyrighted work
- Factor 3:
Amount and substantiality of portion used
- **Factor 4:**
Effect on the market for the original

Fair Use Analysis

- Factor 1:
Purpose and character of proposed use
- Factor 2:
Nature of the protected work
- Factor 3:
Amount and substantiality of the portion used
- **Factor 4:**
Effect on the market for the original
 - Will using it deprive the copyright holder income?

Online Instruction

How does this affect your online instruction?

Course Content and Copyright

- TEACH Act (2002) expands the use of copyright protected documents in course management systems
 - Use must be of limited portions of the work
 - Use must be part of instructional activities
 - Availability must take place during a period of time relevant to the context of the class session
 - Use must be limited to the students enrolled in course

Course Content and Copyright

- TEACH Act (2002) does not allow:
 - Posting of textbook materials typically purchased or acquired by students
 - Posting of protected materials developed specifically for online use
 - Use of copies not directly from the licensed original

Obtaining Online Content

- Locate resources to use for coursework through full-text resources owned by the library system
 - Provide a link to the resource in Blackboard
 - [Persistent Link Request Form](#)

Obtaining the Digital Object

- Reconsider the need to digitize a print resource and find a full-text alternative
 - If not, make a digital scan of a reasonable portion of the original
 - Ensure a copyright notice is on the digital copy
 - The University Libraries will assist obtaining content if a request for a digital copy is placed
 - You can only post documents obtained through a content delivery system if the library system has purchased the licensed original

Posting Content

- Review the content using the Fair Use rules or,
- Get permission from the rights-holder
 - www.copyright.com is the CCC interface
- Ensure your Blackboard course-page is password protected

Managing Content

- Ensure the visibility dates are aligned with the time period the topic will be covered in class
- Ensure that digital files are not accessible online

Copyright Resources for Faculty

- Consultation available for posting publications and media to online courses
- Assistance with streaming media in Blackboard
- Assistance with identifying the version of the media & determining whether it is in the University Library collections

Helpful Tools

- [WSULS Copyright](#)
- [Copyright Guidelines for Posting Documents to Blackboard](#)

Resources



Title 17 of the United States Code

<http://www.copyright.gov/title17/circ92.pdf>

Stanford University (2010). Copyright & Fair Use.

http://fairuse.stanford.edu/Copyright_and_Fair_Use_Overview/chapter9/9-b.html#1

Cornell University Law School (2010). Legal Information Institute

<http://topics.law.cornell.edu/wex/Copyright>

A.A.P. (2006). Questions and Answers on Copyright for the Campus Community (*ISBN: 1929469829*).

Questions?

Michael Priehs

Coordinator for Scholarly
Communications & Copyright
159.5 TRC, Purdy-Kresge Library

mpriehs@wayne.edu

(313) 577-8743