

How Copyright Applies to Me



Copyright vs. Fair Use

Public Domain

What Can I Use?

Software

Copyright is...

Copyright is established by the U.S. Constitution as:

- The owner of a property has the right to:
 - Copy
 - Print
 - Distribute their creations
- Everyone else wanting to use it must obtain permission from the owner.

Note: According to her Berne Copyright Convention, almost everything privately and originally created after April 1, 1989 is copyrighted and protected whether it has a copyright notice or not.

What is Protected?

- Literary works
- Musical works
- Dramatic works
- Pantomimes and choreographic works
- Motion pictures and other audiovisual works
- Sound recordings
- Pictorial and graphic works

What is NOT Protected?

- Titles
- Names
- Short Phrases
(Where's the beef?)
- Slogans
- Ideas
- Facts (calendars, graphs, height/weight charts, rulers, tape measures)
- Methods/ Procedures
- Principals and Discoveries

Length of Copyright

Copyright last for...

- Single author work created after 1978: Author's life plus 70 (70 years after author's death).
- Joint authors work created after 1978: Last surviving author plus 70 years (70 years after the last surviving author's death).
- Work created before 1978: 28 years when it is first obtained. If renewed, 75 years.

Fair Use Is...

Fair Use grants permission to copy for the following reasons:

- Reproduction for purposes of criticism
- Comments/ News reporting
- Teaching/ Scholarship/ Research

To determine if the use of a copyrighted work is Fair Use, the following four factors must be considered and weighed all together:

1. The purpose & nature of the use (How is it to be used?) – for education, for nonprofit, for personal
2. The nature of the copyrighted work (What is being used?) – fact, something published, unpublished work
3. The nature & substantiality of the material used (How much of the work will you use?) – small amount, more than small amount
4. The effect of the use on the potential market for or value of the work – original is out of print or otherwise unavailable, competes with the original, copyright owner is unidentifiable

Public Domain is...

Items that are not copyrighted and are “FREE TO USE”.

- Works published before January 1923.
- Works published between 1923 and 1978 that did not contain a valid copyright notice or if the copyright was not renewed.
- U.S. Government works
- Works that the copyright holder has freely granted to the public domain – graphics posted as FREE on the Internet. (Be sure to document where you copied them from.)
- A published play or performance used within the CLASSROOM setting.

Fair Use for Instructors

Multimedia

When making a Multimedia Project, instructors may use...

- 10 % or 3 minutes of a motion picture – whichever is less.
- 10% or 1000 words of text – whichever is less.
- Entire poem of less than 250 words and less than 2 pages.
- Three poems by one poet or five poems from a collection.
- 10 % or 30 seconds of music – whichever is less.
- Photograph or illustration in its entirety, but no more than five images by an artist or photographer.
- Multimedia Presentations may be used for up to two years; after that time all copyrighted portions must be renewed.

Fair Use for Instructors

Videos

Videos in the classroom:

- Must be used as part of a unit.
- Must be shown within the first 10 consecutive school days of the recording.
- The tape can be retained by the educational institution for 45 days after the recording, but then it must be destroyed. The tape is used for teacher evaluation purposes during the last 35 days of the 45-day retention period. Some companies will allow you to keep the videos on file longer; therefore you must check with the company to see about their specific copyright policy on videos.
- Videos used for recess or rewards must be obtained from a company with public performance rights - such as Region IV.

Note: Fair Use for instructional purposes is not the same as Fair Use for commercial purposes.

Software - Legalities

It is legal to do the following:

- Use only licensed software.
- Make a backup copy of the software – not to be used while the original is in working order.
- Install software according to the license agreement – single user license can be installed on one computer; a lab pack can be installed on five/ ten computers (stated in licensing agreement); a network license can be installed on all computers connected to the network.

Shareware vs. Freeware

What is Shareware?

- It is software that is offered on the Internet for preview purposes. At the end of the preview period, it must be purchased or uninstalled.
- Example: Snag-It

What is Freeware?

- It is software that is offered on the Internet and made for the distinct purpose of allowing people to download it for free.
- Examples: Acrobat Reader, Shockwave, QuickTime

U.S. Copyright Office

According to the U.S. Copyright Office:

- Permission is granted to create backup copies of software; however, burning CD's is prohibited.
- Permission is granted to create copies of books where the original is out of print, there is not ready market for permission and the copyright owner is unidentifiable.

For more information on Copyright, visit the U.S. Copyright Office's website at:

<http://www.copyright.gov>