Copyright Basics
The UCCS Copyright Education Initiative

The UCCS Copyright Education Initiative was established to provide copyright information and educational resources to the UCCS campus community.
My Role

I am here to help students, faculty, and staff address issues relating to:

- The use of copyrighted works for teaching, learning and research
- Publication agreements
- Open Access initiatives
- The preservation of library materials
- Current copyright issues
An Introduction to U.S. Copyright Law
Origins Copyright Law

Article 1 Section 8 of the U.S. Constitution and represents the founding fathers effort "To promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries."
The Law

Copyright is codified in title 17 of the U. S. Code

- Definitions
- Scope
- Rights & Limitations
- Exceptions
Securing Copyright?

Copyright protection subsists in “in original works of authorship” (not copied) which are “fixed in any tangible medium of expression” (can be perceived by eye, or with the assistance of some type of machine, e.g. computer, CD player, DVD player, etc).
What is Copyrightable?

- Literary works (fiction/nonfiction, poetry, textbooks, reference works, directories, catalogs, advertising copy, compilations of information, computer programs and databases)
- Musical works (this generally refers to music scores & accompanying words)
- Dramatic works (plays; film, radio, and television scripts)
- Pantomimes and choreography
- Pictorial, graphic, and sculptural works (art)
- Motion pictures and other audiovisual works (film, television shows, videogame, etc.)
- Sound recording (performances of musical works, audio recordings of literary works)
- Architectural works (just the designs, not the building itself)
What is Not Copyrightable

- Ideas
- Facts
- Works in the public domain
  ~Works whose copyright has expired
  ~Works created by the U.S. government

Free and unrestricted use of these works helps encourage creativity and discovery in the arts and sciences
But.....

There is almost always an exception!

- Could have copyright for your writings about facts
- Copyright for the arrangement of data into tables
- New, creative components added to public domain works
- Works of the U.S. government could have copyrightable components
- U.S. government “works for hire” may or may not be protected

It’s important to be able to distinguish between the various parts of a work and determine which elements are copyrightable.
Additionally....

Other works which are generally not eligible for copyright protection:

- Works not fixed in a tangible medium of expression
- Names, phrases, slogans, titles, symbols (though these could be protected under trademark)
- Mere variation of typographic ornamentation, lettering, or coloring
And...

- Procedures, methods, processes (though these could be protected under patent or trade secret law)
- Listings, e.g. table of contents, recipe ingredients
- Works consisting of common facts, e.g. calendar, height/weight chart, ruler.
Ownership of Copyright
Who Owns Copyright?

Generally, the author of the work

- Copyright can be transferred to another (in total or just specific rights) only in writing.
- Remember-transfer of the object does not amount to transfer of copyright!
Joint Authorship

When two or more authors work together to create a work the copyright is shared between them.

- Each author must have contributed significantly to the work
Works Made for Hire

- Works created by the employee in the scope of their employment
  - Generally, the copyright will rest with the employer

- Works created by independent contractors
  - Even with commissioned works, the parties must agree in writing ahead of time who will hold the rights to the work
Authors Rights
Authors Rights

Owner of a protected work is provided with certain right....

- The right to reproduce (copy) the work
- The right to distribute the work (publish/sell)
- The right to make derivative works (translations, films, audio recording)
- The right to display (show) the work publically
- The right to perform (recite, act) the work publically
Public Display

To “display” a work means to show a copy of it, either directly or by means of a film, slide, TV image, or any other device or process.

- In the case of motion picture or visual work, to show individual images nonsequentially
Public Performance

To “perform” a work means to recite, play, dance, or act it, either directly (in person) or by using device (CD player to play CD)

- In the case of a motion picture or other audiovisual works, to show its images in sequence or to make accompanying sounds audible.
Moral Rights

Visual Artists Rights Act (VARA) was added in 1990 to grant moral rights for certain visual works, like art and sculpture. VAPA protects:

- **Attribution**: Allows the artist to keep their name associated with a work, or have it removed
- **Integrity**: allows the artist to prevent their work from being modified, defaced, or destroyed
Works Covered by VAPA

- Single copies or signed and numbered prints of 200 or fewer

Not all paintings, drawings, prints, or sculpture qualifies for VARA protection;
- Tends to exclude advertising & promotional materials
- Courts have required “some level of notoriety” in the work
Exceptions to Moral Rights

- Does not apply if the work was created prior to the law’s passage on Dec. 1, 1990
- Artist waives their rights in writing; document must be signed by both the artist and the owner
- Destruction results from normal wear and tear over the passage of time or as a result of the deterioration of materials used to create the work
Duration of Copyright
How Long Does it Last?

Works created after Jan. 1, 1978 are protected for the life of the author plus 70 years
- Join authorship-life of last surviving author +70 years
- Works for Hire-95 years from publication or 120 years from creation, whichever is shorter

For older works, it depends...
- Publication date
- Type of material
- Inclusion of copyright notice
- Was the copyright renewed?
Works Created Before 1923

Works published before 1923 are in the public domain. Use them anyway you like!

- Republish, make a movie or play, add commentary
- Original work is still not protected, but your expression of it is
- Always, always give proper attribution!
In Limbo

Works published between 1923-1978

- It depends!
  - Did the author place a copyright notice of the work?
    *If not, the work was never protected by copyright*
  - Was it registered with the U.S. Copyright Office?
    *If not, the work was never protected by copyright*
  - Was the copyright renewed?
    If it was not renewed at the end of its original term then the item has passed into the public domain
Moral Rights

- Much more limited
  - Only last for the life of the author
Putting it All Together
In Summary

- It’s easy to secure copyright
- Many different types of works are protected
- Not all are though!
- The creator(s) has a lot of rights to their work
- They can assign some or all of these to others
- Items created after 1978 are protected for a LONG time
- Items created before 1978; it depends!
Why is this all important?

- Having a basic knowledge of the law will help you better understand your rights and responsibilities in using protected works.
Questions?
Please don’t hesitate to ask!

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