Using Copyrighted Works for Your Class Assignments
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The UCCS Copyright Education Initiative was established to provide copyright information and educational resources to the UCCS campus community.
Overview

- Basics of U.S. Copyright Law
- Using Protected Works for Class Assignments
- Putting it all Together
- Infringement
Common Misconceptions

- If it’s on the internet, I can use it however I want!
- If it’s an educational use I can use anything I want, however I want, right?
- I’ll never get caught!
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."

Copyright is codified in title 17 of the U. S. Code
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, etc.)
- 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 show, videogame, etc.)
- Sound recording (performances of musical works, audio recordings of literary works)
- Architectural works (just the designs, diagrams, and models; 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.
Who Owns Copyright?

Generally, the author of the work

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
- Commissioned works or those created by an independent contractor
  - The parties must agree in writing ahead of time who will hold the rights to the work
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
How Long Does Copyright Last?

- Works created after Jan. 1, 1978 are protected for the life of the author plus 70 years.
- Works of Joint authorship are protected for 70 years after the death of the last surviving author.
- Works for Hire-95 years from publication or 120 years from creation, whichever is shorter.
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 not protected, but your expression of or what you add to it is!
- You should always give proper attribution to the original creator
In Limbo

Works published between 1923-1978

- It depends!
  - Inclusion of copyright notice?
  - Was the work registered with the U.S. Copyright Office?
  - Was the copyright renewed?

- Check resources like Google Books, Hathi Trust, & Project Gutenberg, to see if any notes on status

- If in doubt, treat as a protected work
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
- Items are protected for a LONG time
Questions?
Using Copyrighted works for Assignments & Research
## Copyright vs. Plagiarism

<table>
<thead>
<tr>
<th>Copyright Infringement</th>
<th>Plagiarism</th>
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<tbody>
<tr>
<td>Copyright infringement involves the unauthorized use of someone else's work and</td>
<td>Plagiarism involves using someone else's work without properly giving credit.</td>
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<tr>
<td>without securing permission, or using the work outside one of the legal exceptions</td>
<td>• Ethical Standard</td>
</tr>
<tr>
<td>defined in U.S. Copyright Law.</td>
<td>• Penalties are set by the academic or professional community and can</td>
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<tr>
<td>• Federal Law</td>
<td>include a failing grade on an assignment, expulsion from an academic</td>
</tr>
<tr>
<td>• Penalties are defined in the law and the courts and can include fines and jail time.</td>
<td>institution, disrepute in a professional community.</td>
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### Avoid Copyright Infringement by...
- Understanding your rights and responsibilities when using protected works
- Properly utilizing fair use or one of the other copyright exceptions
- Securing permission from the rightsholder

### Avoid Plagiarism by...
- Always citing your sources
You can use protected works in your own work when...

1. You own the copyright, or
2. The material you wish to use is in the Public Domain, or
3. The item you are using is a Creative Commons work, or
4. The use is a “Fair Use” as defined under 17 U.S.C. § 107, or
5. You obtain permission to use the work from the rightsholder
1. You Own the Copyright

This can include work you’ve created for other classes, just be sure to cite yourself!
2. Using Public Domain Works

- Works published before 1923 are in the public domain. Use them anyway you like!
- Works by U.S. Government* are also in the public domain
- In both instances, always, always, always give proper attribution to the original creator!
Finding Public Domain Works

- Project Gutenberg
  http://www.gutenberg.org/

- Hathi Trust
  http://www.hathitrust.org/

- Google Books
  http://books.google.com/
3. Using Creative Commons Works

http://creativecommons.org/

Not legally in the public domain, but rightsholders have specified certain uses which are allowed without obtaining permission.

License Types
- Attribution
- Attribution-Share Alike
- Attribution-No Derivs
- Attribution/NonCommercial
- Attribution/NonCommercial-Share Alike
- Attribution/NonCommercial-No Derivs
4. Your Use is a ‘Fair Use’

Fair Use provides us with the ability to use portions of copyright works for the purpose of teaching, research, news reporting, criticism, and commentary.

- Use would otherwise be infringing
Fair Use (17 U.S.C. § 107)

In determining whether the use made of a work in a particular case is a fair use the factor to be considered shall include—

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

- Educational or Commercial?
- Transformative?
  - Have you turned it the original into something new by adding new expression or meaning?
    - Parody or mash-up
The Nature of the Work

Explores the characteristics of the work being used...

- Fiction vs. nonfiction
- Published vs. unpublished
The Amount & Substantiality of the Portion Used

Looks at quantity and quality...

- There are no absolute rules as to how much of a copyrighted work may be copied and still be considered a fair use
- Best advice: consider the amount needed to serve your purpose.
  - If straight copying or quoting, less is better
  - If transformative, can usually justify more!
    - Parody, mash-up
Effect on the Market

Is your use resulting in lost revenue for the rightsholder?

- Occurs when use replaces sale of the work
- Also occurs when you obtain a copy of a work illegally
Legally Obtained vs. Illegally Obtained

Legally Obtained
- A copy you own
- A copy owned by a library
- A copy borrowed from a teacher or friend
If the library does not own a copy ask us to purchase one: https://library.uccs.edu/acquire_web~S0

Illegally Obtained
- Bootlegged copy obtained from the internet
- A copy of a copy of a copy
If it’s questionable, don’t use it!
5. Permission from Rightsholder

- Documented in writing
- Securing Permission
  1. Contact the rightsholder
  2. Request their permission to use the work, providing detailed info on who, what, and how
- CEI can help you with this!
Putting it All Together
Step-by-Step

- Understand the basics of copyright law
  - This will help you determine if a work is protected and your options for using it

Options for Use

1. You own the copyright, or
2. Works in the Public Domain, or
3. Works from the Creative Commons, or
4. It’s a fair use, or
5. You obtained permission from the rightsholder
Quoting

- From a book, text, magazine, newspaper, poem, etc.

Options

1. You own the copyright
2. Is the work in the Public Domain?
3. Can you use a Creative Commons work?
4. Is it a fair use?
5. Can you obtain permission from the rightsholder?
Using Images

- From a book or magazine, famous works of art, or images found on the web, etc.

Options

1. You own the copyright
2. Is the work in the Public Domain?
3. Can you use a Creative Commons work?
4. Is it a fair use?
5. Can you obtain permission from the rightsholder?
Using Audiovisual Works or Sound Recordings

- Audiovisual Works: movies, newscasts, documentaries, or videogames
- Sound Recordings: popular music, classical music, radio broadcasts, etc.

Options . . .

1. You own the copyright
2. Is the work in the Public Domain?
3. Can you use a Creative Commons work?
4. Is it a fair use?
5. Can you obtain permission from the rightsholder?
Infringement
Common Misconceptions-Review

If it’s on the internet, I can use it however I want!
- Most works found on the internet are protected by copyright and can only be used in accordance with the law

If it’s an educational use I can use anything I want, however I want, right?
- Not quite! Work through the options to determine how you can use the work

I’ll never get caught!
- Never say never! Penalties for infringement can be $30,000+ per use!
Recommendations

- Work through your options thoughtfully!
- Uncertain? Ask!

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