Copyright in Scholarship and Instruction

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http://scholar.lib.vt.edu
Permission or license to use a copyrighted work is NOT required if

- Work is a fact or an idea
  - Phone number, earth is round
- Public domain
  - US government documents
  - Very old [see App. A]
- Fair use
Fair Use Myth

It's OK--it's for educational purposes.

Before using someone else's work without permission, weigh ALL 4 FACTORS

1. Purpose and character of use
2. Nature of the work
3. Amount, substantiality
4. Effect

Checklist [see App. B]
1. Purpose and character of use

- Commercial or educational use
- For profit or not
- Degree of transformation; value added
- For criticism, commentary, news reporting, teaching, scholarship, research
2. Nature of the copyrighted work

- Worthy of (extensive) protection?
- Character of the work?
  - fact (information) or fiction (imaginative)
    - Published facts weigh in favor of fair use
    - Unpublished original expressions weigh in favor of seeking permission
3. Amount and substantiality

- Use only what is necessary
- Quantity in relation to whole work
- Quality in relation to whole work
4. Effect

- Harm to potential market or value of a work after a portion has been used separately from the whole
Fair use

- Did the scales tip in favor of fair use after weighing all 4 factors?

- If not
  - Use library services: Title 17 U.S.C. Sec. 108
    - EReserve
  - Ask for permission
Copyright permission services

- Copyright Clearance Center
  - http://copyright.com
- RSiCopyright
  - http://www.rsicopyright.com/
- Association of American Publishers
  - http://www.publishers.org

You asked but they never responded. You don’t have permission.

If there’s time: TEACH Act >>>>
Copyright for Instruction

- USC Title 17 Section 110
  - Limitations of certain performances and displays
  - Face-to-face classroom settings

- Broadened by TEACH Act (Nov. 2, 2002)
  - Technology Education And Copyright Harmonization
  - Must have an institutional copyright policy
TEACH: Technology Education and Copyright Harmonization Act

- Fair use standards in digital education environment
- Modified existing copyright law for:
  - Accredited nonprofit educational institutions
  - Mediated instruction
  - Integral part of class session
  - Limited to enrolled students
  - Accurately informed about copyright compliance
  - Reasonably prevent
    - Retention beyond course
    - Unauthorized further dissemination
TEACH Act: Works allowed

DISTANCE LEARNING CLASS IS THE SAME AS IN THE CLASSROOM

- Show entire nondramatic literary works
  - News, poetry, speech, charts, maps
- Show entire nondramatic musical works
- Everything else in reasonable and limited portions
  - Plays, movies, operas, TV shows, choreography
TEACH Act--You must not use

- Works marketed primarily for distance education
- Unlawfully made or acquired copies
- Materials meant for additional study outside of class
  - EReserve, Reserve, Blackboard
TEACH Act--You must

- Transmit as an integral part of class session
  regular part of systematic, mediated instruction
- Use copyrighted materials only when directly related to the lesson
- Limit access to students enrolled in the course
- Have an institutional copyright policy & inform students about ©
- Block further dissemination
Copyright Resources

- Copyright Management Center (IUPUI)
  - http://www.copyright.iupui.edu/

- Crash Course in Copyright (UTAustin)

- Library of Congress, Copyright Office
  - http://lcweb.loc.gov/copyright/

- Legal Information Institute (Cornell)
  - http://www4.law.cornell.edu/uscode/17/

- Stanford University Libraries
  - http://fairuse.stanford.edu

- TEACH Toolkit