November 15, 2011
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A Copyright Quote

Only one thing is impossible for God:
to find any sense in any copyright
law on the planet.
And the Answer Is

American Hero, Author & Humorist

MARK TWAIN
What is Copyright?

- The Copyright Act protects original works of captured content
  - it protects an expression of an idea, not the idea itself
What is Copyright?

- Copyright attaches to nearly all forms of content contained in a fixed and tangible medium:
  - books
  - movies
  - video games
  - software
  - television programs
  - photographs
  - websites
What isn’t Copyright*?

- ideas
- facts
- concepts
- principles
- processes, procedures, system
- Discoveries

* But may be subject to patent, trade secret or contractual protections
What Isn’t Copyright*?

- Titles  *Horton Hears A Who*
- Slogans  *Tastes Great, Less Filling*
- Names  *King Kong*
- Short Phrases  “You’re Fired!”
- Useful articles  *Clothing, furniture, jewelry*
- “Common Property”  *Weights, Measurement, Calendars, Addresses*

* But may be subject to trademark
How Long is Copyright?

- Copyright is “limited”(ish) in duration
- Now
  - life of the author + 70 years
  - For corporate works, the shorter of:
    - a) 95 years after publication
    - B) 120 years after creation
- US Federal works are PD*
- Worldwide different copyright laws apply
  - US works in the PD post 1923
  - European works generally life of author + 50
    - Usually PD by 150 years after publication

Worldwide different copyright laws apply

How Does Copyright Work?

- The owner of a copyright has the (nearly) exclusive rights to:
  - make copies
  - distribute the work
  - publish the work
  - display or perform the work
  - create derivative works
Copyright Exceptions

There are some limitations to the exclusive rights granted to copyright owners.

If applicable, these limitations permit use of the copyrighted material without notice to or approval by the copyright owner.
Face-to-Face Teaching

17 USC § 110 permits the display of a work in a face-to-face classroom setting. Note that this exception is limited to use in an actual classroom setting.
TEACH ACT

TEACH Act allows use of copyrighted content in distance education courses
- must be part of course offered by the school
- permits display of works in proportion to that which would be shown in live classroom
- but, no full length movies, plays, musicals
- technological downstream restrictions required
- limit access to enrolled students
Doctrine of 1st Sale

17 USC § 109 provides that where the copyright owner transfers ownership of a copy, the recipient may

- sell it
- lend it
- rent it out (except software & sound recordings)
- throw it away

or make any other use of it that does not involve the exclusive rights granted to the copyright holder
Fair Use Doctrine

110 USC § 107 – Fair Use – The Gold Standard of Copyright limitations

"[T]he fair use of a copyrighted work, including such use by reproduction in copies . . . for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research, is not an infringement of copyright."
Fair Use

4 Part Fair Use Test

What is the character of the use?
What is the nature of the work to be used?
What is the amount of the work to be used?
Will the use negatively affect the value of the work?
Transformative Use

- Courts now recognize that a “transformative use” of copyrighted material is a fair use
- Transformative means the end product is completely “new” and serves a different purpose than the original
This is Transformative
Is this Transformative?
Fair Use & Coursepacks

- In spite of express language saying it’s OK to make copies for classroom purposes . . .
- No question that entire CoursePack cannot be copied without permission, (Princeton Univ. v. Michigan Document Servs., 99 F.3d 1381 (6th Cir. 1996))
- Depends on amount and proportionality
- Georgia State Litigation
Classroom Copying Guidelines

- Fair Use does not go away all together
  - (1) the copying meets the test of brevity (1,000 words, in the present context);
  - (2) the copying meets the test of spontaneity, under which "[t]he inspiration and decision to use the work and the moment of its use for maximum teaching effectiveness [must be] so close in time that it would be unreasonable to expect a timely reply to a request for permission;"
  - (3) no more than nine instances of multiple copying take place during a term, and only a limited number of copies are made from the works of any one author or from any one collective work;
  - (4) each copy contains a notice of copyright;
  - (5) the copying does not substitute for the purchase of "books, publishers' reprints or periodicals;" and
  - (6) the student is not charged any more than the actual cost of copying.
Coursepack Tips

- Use a password protected system that requires you to go through a copyright analysis
  - CourseWorks
- SIPX
- Link, Link, Link
- Rely on existing SUL licenses
- Difficult to scale to open access courses
“Educators may incorporate portions of lawfully acquired copyrighted works when producing their own educational multimedia programs” for class. CONFU, Conference on Fair Use

No more than 10% or 3 minutes (whichever is less) of motion-based works

No more than 10% or 30 seconds (whichever is less) of a song or video

No more than 10% of a text

Entire photographs or illustrations may be used provided that no more than 10% or 15 images (whichever is less) comes from any one source

These guidelines are not reliable for publicly posted content on the web . . .
Tips for Online Courses

- Do not become a source for image scraping
- Blur images or mark images
- Work with open source image databanks
- Password protect
- Seek permission for use of materials
Permission Needed

When a work is not publicly available on the web, licensed by SUL or published pre-23 in the U.S. & the class requires use of more than 3 or so articles, SEEK PERMISSION FROM THE PUBLISHER or from the Copyright Clearance Center. See, http://fairuse.stanford.edu/Copyright_and_Fair_Use_Overview/chapter7/7-a.html

Here’s a tip: First check the publication itself to see if there’s an educational license provided.
The Most Important Slide
Copyright Resources!

Stanford University’s Copyright Reminder:
http://www-sul.stanford.edu/libraries_collections/copyright_reminders/

Stanford University’s Copyright Policy:
http://www.stanford.edu/dept/DoR/rph/5-2.html

Copyright & Fair Use by the Stanford University Libraries:
http://fairuse.stanford.edu/index.html

University of Texas’ Crash Course in Copyright:
http://www.utsystem.edu/ogc/IntellectualProperty/cprtindx.htm

Still have questions? (And you probably will), please feel free to contact me at lks@stanford.edu or 725-9560