Copyright Essentials

Ownership and Management Issues
for Scholars/Researchers

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Why is Copyright Important?

- As researchers and scholars, faculty/grad students are both *users* and *creators* of intellectual property.
- Ownership and use rights are intertwined.
Message

- You have an ethical obligation to understand your rights and responsibilities with respect to:
  - *Using other people’s copyrighted materials*
  - *Managing the ownership of your copyrighted materials*
  - This obligation runs not only to you but to your colleagues, your organization, and society in general
What Works are Researchers and/or Scholars *Using*?

- Original Material
- Unpublished Material
- Published Material
- Public Domain Material
- Databases
What Does Copyright Protect?

- Copyright protection exists for original works of authorship fixed in a tangible medium of expression
- Facts and ideas NOT protected by copyright; only the “expression” is protected
- Publication and/or registration not required
- Registration recommended
What types of works can be protected?

- Literary Works
- Musical Works
- Dramatic Works
- Pictorial, graphic, and sculptural works
- Motion pictures and other audiovisual works
- Sound Recordings
- Pantomimes
- Architectural Works
What are the rights of the copyright holder?

- To reproduce the work
- To prepare derivative works
- To distribute copies of the work
- To publicly perform the work
- To publicly display the work directly or by telecommunication
- The right to publicly perform a sound recording by digital transmission
Copyright Notice No Longer Required

- Copyright notice not required for works created after 3/1/89
- ©, name, date
How long does a copyright last?

- Currently: Life plus 70 years
- 95 years from publication or 120 years from creation, whichever shorter
- Unpublished works will enter public domain 12/31/2002 if author deceased > 70 years
What is the public domain?

- Published 1922 or before in the U.S.
- Most federal government documents
- Lost copyright (failure to comply with U.S. formalities when they were required)
- Expired copyright
Databases

- Can be protected by copyright
- Either the individual entries and/or as a compilation copyright
- Again: Cannot copyright facts or ideas; Only the particular expression
Licenses

- Most databases are covered by a license
- For example, library databases
- Controls over copyright
Copyrighted Works May Be Used

- With permission of the copyright holder or
- Under a specific exemption of the copyright act, such as:
  - Fair Use
  - Performance and Display exemptions for face-to-face teaching and limited teaching transmissions
What is fair use?

- A balance to the copyright holder’s exclusive rights
- Four factors to consider:
Fair Use Factors

- The purpose and character of the use.
- The nature of the copyrighted work.
- The amount and substantiality of the portion used in relation to the copyrighted work as a whole.
- The effect of the use on the potential market for or value of the copyrighted work.
Helps

- Fair Use Considerations Worksheet
  - [http://www.lib.ncsu.edu/scc/worksheet.pdf](http://www.lib.ncsu.edu/scc/worksheet.pdf)

**Sample Fair Use Guidelines**

- UT Rules of Thumb
  - [http://www3.utsystem.edu/ogc/intellectualproperty/copypol2.htm](http://www3.utsystem.edu/ogc/intellectualproperty/copypol2.htm)

- Fair Use Guidelines for Educational Multimedia
  - [http://www.libraries.psu.edu/mtss/fairuse/default.html](http://www.libraries.psu.edu/mtss/fairuse/default.html)
Web Courses

- Using material found on the Internet
  - Copyright law applies
  - Material found may/may not be copyrighted
  - Copyright notice not necessary
  - Works may be on illegally
  - Derivative works can be infringing
Linking and Framing

- URLs are addresses
- Potential liability for linking to infringing materials
- Lawsuits re both linking and framing
Getting Permission

- Identify, locate, and confirm the copyright holder(s)
- Allow plenty of time before anticipated use
- Request and receive permission in writing; save all correspondence
- Have an alternate plan
Permissions Guide

- NCSU Permissions Guide with sample permissions letters:
  - http://www.lib.ncsu.edu/scc/guide.html
- UT Getting Permission page:
  http://www3.utsystem.edu/ogc/IntellectualProperty/permission.htm
Academic Performance and Display Exemptions

- Section 110(1): Face to Face Teaching
- Section 110(2): Transmissions
Section 110(1)-Face to Face
Teachers and Students May

- Perform or display a work IF
- Face to face teaching
- Nonprofit educational institution
- Classroom or similar place devoted to instruction
The Technology, Education, and Copyright Harmonization Act: 110(2)

- Promote online education
  - No physical classroom
  - Asynchronous
  - Allows performance of part of dramatic works
- Protect content owners
  - Technology controls
  - Limit to time of class session / mediated instruction
- The TEACH Act Toolkit
  - http://www.lib.ncsu.edu/scc/legislative/teachkit/index.html
Copyright Ownership and Management

- Types of copyright ownership
  - Individual
  - Joint
  - Work For Hire
    - Employee
    - Independent Contractor
Copyright protection begins the moment an original work is fixed in a tangible medium of expression.

The creator or author is usually the initial owner of the copyright.
Joint Authorship

- Arises upon creation when
  - Two or more authors contribute copyrightable expression
  - With the intent that it be combined into a single work
- Each shares ownership of the entire work
- Only a duty to account for profits to other joint owners
Work For Hire

- A work prepared by an employee within the scope of his or her employment; or
- A work specially ordered or commissioned where the parties both agree in writing that the work shall be considered a work for hire for copyright purposes. (typically for independent contractors)
Contracts with Publishers/Vendors

- Can transfer as much or as little as is necessary
- Retain the rights you will need in the future
- Once the copyright is gone - you and your institution will typically face restrictive license terms
Retaining Rights

- Owner hereby grants the author a non-exclusive, world-wide, royalty-free perpetual and irrevocable right and license to copy, distribute, display, and perform this Work, in whole or in part, and to incorporate the Work, in whole or in part, into other works (the "Derivative Works") in his/her teaching and research activities including publication of the subsequent work in both printed and electronic materials and on the author's non-profit educational Web site.
SPARC Author’s Addenda