

# Copyright Issues

## *I. How Long Copyright Protection Endures:*

### **Works Originally Created on or after January 1, 1978**

- Single author – 70 years after author's death
- Co-authors – 70 years after last author's death
- Anonymous – 95 years from publication or 120 years from creation, whichever is shorter

### **Works Originally Created before January 1, 1978, But Not Published or Registered by That Date**

- Same protection as for works created on or after January 1, 1978
- No case will the term in the category expire before December 31, 2002
- Works published on or before December 31, 2002, will not expire before December 31, 2047

### **Works Originally Created and Published or Registered before January 1, 1978**

- First term of 28 years from date of registration or publication
- Eligible for renewal from 28 years to 47 years → a total term of protection of 75 years
- Can further extend the renewal term by an additional 20 years, that is 67 years and a total term of protection of 95 years

### **International Copyright Protection**

- There is no "international copyright" that protects an author's copyright throughout the world. Protection depends on that national law of a particular country.

## *II. Educational Fair Use Guidelines*

(The guidelines establish the standards for uses and copying in education, but they are not part of the Copyright Act. They are approved by a consensus of educators, scholars and publishers.)

This applies to educational institutes, libraries, museums, hospitals and other nonprofit institutions when they engage in nonprofit instructional, research, or scholarly activities for educational purposes.

## **Rules for Reproducing Text Materials for Use in Class**

- Classroom copying cannot be used to replace textbooks used in the classroom.
- Students cannot be charged more than the actual cost of photocopying.
- The number of copies cannot exceed more than one copy per student.
- A notice of copyright must be affixed to each copy.
- Instructor may not copy more than one short poem (less than 250 words), article, story, essay (less than 2,500 words), two excerpts (less than 1,000 words), a chapter from a book, one illustration per book/periodical issue, or 10% of the work from the same author, nor more than three from the same collective work or periodical volume during one class term.
- Only nine instances of such copying for one course during one school term are permitted.
- Instructors may not photocopy workbooks, text, standardized tests or other materials that were created for educational use. Educational publishers do not consider it fair use if the copying provides replacements or substitutes for the purchase of these materials.

## **Rules for Reproducing Music**

- An instructor can make copies of excerpts of sheet music or other printed works, provided that the excerpts do not constitute a “performable unit”, such as a whole song or movement.
- No more than 10% of the whole work can be copied.
- The number of copies may not exceed one copy per student.
- A single recording of a performance of copyrighted music may be made by a student for evaluation or rehearsal purpose.
- A single copy of a sound recording of copyrighted music may be made for the purpose of constructing aural exercises or examinations.
- A notice of copyright must be affixed to each copy.
- Instructors may not copy sheet music or recorded music for creating anthologies or compilations used in class, nor for the purpose of performance.
- Instructors may not copy from works intended for course of studying or teaching, such as workbooks, exercises, tests, etc.

## **Rules for Recording and Showing Television Programs**

- Educational institutions can record television programs transmitted by network television and cable stations and keep the tape for 45 days, but can only use it for instructional purposes during the first ten of the 45 days. After the first ten days, the tape can only be used for teacher evaluation purposes. After 45 days, the recording must be erased or destroyed.
- To include a taped television program within the curriculum, permission must be obtained from the copyright owner.
- A television show may not be regularly recorded in anticipation of requests.
- All copies of a recording must include the copyright notice.

To learn more about educational use of copyrighted materials, see:  
***Reproduction of Copyrighted Works by Educators and Librarians*** ( U.S. Copyright Office)

<http://www.copyright.gov/circs/circ21.pdf>

### ***III. Fair Use Judging Factors (Checklist)***

1. **the purpose and character of your use**
  - √ teaching, research, nonprofit, criticism, comment, parody, reporting
  - X profiting making, commercial activity, entertainment, denying credit to original author
2. **the nature of the copyrighted work**
  - √ published work, factual or nonfiction based, favored educational objectives
  - X unpublished work, fiction, highly creative work
3. **the amount and portion taken**
  - √ small quantity, portion used is not central to entire work
  - X large portion or whole work used, portion used is central to work
4. **the effect of the use upon the potential market**
  - √ one or few copies made, no significant effect on the market, lack of licensing mechanism
  - X could replace sale of copyrighted work, significantly impairs market, affordable permission available for using work, numerous copies made, repeated or long term use, make it available on Web

### ***IV. Coursepacks***

- It is the instructor's obligation to obtain clearance for materials used in class.
- Bookstores or copy shops are usually affiliated with established clearance services and can obtain clearance on behalf of instructors.
- Some clearance companies, such as Copyright Clearance Center (CCC), also provide clearance for non-paper electronic coursepacks used in distance learning.
- Clearance fees vary, about 8 cents per page.
- Books that are out of print still need permission to use unless they are in the public domain.
- Request permission from publishers at least two months before the class begins.

- A copyright notice is required to identify the copyright owners of the materials included in the coursepack.

Copyright Clearance Center – Academic Permissions Service  
<http://www.copyright.com/>

XanEdu – CoursePack Services  
<http://www.xanedu.com>

The Association of Academic Publishers  
<http://www.publishers.org>

## ***V. Getting Copyright Permission***

1. Determine the holder of the copyright by checking the copyright page of the book or searching the Copyright Records at <http://www.copyright.gov/records/>
2. Request permission from the copyright owner in writing. Clearly describe the scope of permission.

An alternative to contacting the publisher directly is to go through the Copyright Clearance Center (CCC). The CCC manages the rights of over 1.75 million works, represents over 9,600 publishers and hundreds of thousands of authors.

### **Music**

#### **Live Performance**

To obtain permission to play or sing a song live during a performance, contact the composer's/lyricist's representative and the publisher. The American Society of Composers, Authors and Publishers (ASCAP) and Broadcast Music, Inc. (BMI) represent the interests of many composers, lyricists and publishers.

ASCAP: <http://www.ascap.com/index.html>

BMI: <http://www.bmi.com/>

### **WebCasting**

The Recording Industry Association of America (RIAA) represents most major record labels and provides information on webcasting and licensing  
[http://www.riaa.com/issues/licensing/webcasting\\_faq.asp](http://www.riaa.com/issues/licensing/webcasting_faq.asp)

## **Play or Musical**

1. Determine which play publishing house has the rights to the play you wish to produce.
  2. Contact the company to find out if the play is available for production.  
“Restricted” plays are not available for production.
  3. Write to the publishing house for a royalty quote.
  4. Sign the contract and pay the royalty fee. You may have to pay extra for scripts as royalty fee usually doesn’t cover scripts.
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## **Information Retrieved from**

Library of Congress – Copyright Basics

<http://www.copyright.gov/circs/circ1.html>

Reproduction of Copyrighted Works by Educators and Librarians (U.S. Copyright Office)

<http://www.copyright.gov/circs/circ21.pdf>

Copyright Management Center ( Indian University – Purdue University – Indianapolis )

<http://www.copyright.iupui.edu/index.htm>

Educational Uses of NonCoursepack Materials ( Stanford University )

[http://fairuse.stanford.edu/Copyright\\_and\\_Fair\\_Use\\_Overview/chapter7/7-b.html](http://fairuse.stanford.edu/Copyright_and_Fair_Use_Overview/chapter7/7-b.html)