



Understanding Copyright A Basic Guide for the CLU Community

By Henri Mondschein
Information Specialist
Manager, Information Literacy
Pearson Library
Information Systems & Services

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What is Copyright?

Copyright protects the published and unpublished works of authors of literary, dramatic, musical, artistic, and certain other intellectual forms of expression such as digital works. Copyright aims to foster the creation of all forms of works of authorship by providing fair returns to creators and copyright owners and to curb unauthorized and uncompensated copying (Association of American Publishers, 2006, p. 3). Copyright protection falls under Title 17 of the U. S. Code to the authors of “original works of authorship,” including “fixed in any tangible medium of expression.” Section 106 of the 1976 Copyright Act generally gives the owner of the copyright the exclusive right and to authorize others with permission of the author to:

- Reproduce all or part of the work
- Distribute copies (including digital channels such as the Internet)
- Prepare new versions based on the original work
- Perform and display the work publicly

(Association of American Publishers, 2006, p. 5)

The Copyright Act protects original works of authorship. Under Section 102(a) specific categories of authorship include:

- Literary works
- Musical works, including any accompanying music
- Pantomimes and choreographic works
- Pictorial, graphic and sculptural works
- Motion pictures and other audiovisual works
- Sound recordings and architectural works
- Architectural works

(Bonner, 2006, p. 3)

The following types expressions do not fall under copyright protection:

- Titles, names, short phrases and slogans; familiar symbols or designs, mere variations of typographic ornamentation, lettering, mere listings of ingredients or contents
- Ideas, procedures, methods, systems, processes, concepts, principles, discoveries, or devices, as distinguished from a description, explanation, or illustration
- Certain works produced by government employees
- Works consisting entirely of information that is common property and containing no original authorship

For additional general information about copyright, read the CCC publication: *Copyright Basics* <http://www.copyright.com/ccc/viewPage.do?pageCode=cr10-n>

What is Fair Use?

Fair use gives the owner of a work the right to reproduce or to authorize others to reproduce the work in copies within limits.

This right is subject to certain limitations found in sections 107 through 118 of the Copyright Act (title 17, U. S. Code). One of the more important limitations is the doctrine of “fair use.” Although fair use was not mentioned in the previous copyright law, the doctrine has developed through a substantial number of court decisions over the years. This doctrine has been codified in section 107 of the copyright law. Fair use is determined by three tests: **brevity**, **spontaneity**, and **cumulative effect**.

Brevity

The brevity provision allows multiple copies to be made in the following situations:

Prose: (a) Either a complete article, story, or essay of less than 2,500 words, or (b) an excerpt from any prose work or not more than 2,500 words or 10% of the work, whichever is less, but in any event, a minimum of 500 words.

Poetry: Copying of a complete poem is permitted if (a) it is less than 250 words and if it is printed on not more than two pages or (b) from a longer poem, an excerpt of not more than 250 words.

Spontaneity

“Spontaneity” refers to the copying of material for classroom use where the reproduction was unexpected and at a moment of “inspiration.” An example might be a professor copying an article from the morning’s paper that is directly relevant to a topic to be discussed in class that afternoon.

Cumulative Effect

The “cumulative effect” refers to the limits set on copying material for a single course. Essentially, no more than one article or two excerpts can be copied from the same author and no more than three articles can be copied from the same collective work or periodical during one class semester or term. Altogether, there should be no more than nine instances of multiple copying in a course during a semester or term.

Checklist for Fair Use

Fair use means the material is used for:

- Teaching
- Research
- Scholarship
- Nonprofit educational institution
- Criticism
- Comment
- News reporting
- Transformative or productive use
- Parody

Fair use also applies when:

- One or few copies are made
- A professor restricts access to content to students or other appropriate groups
- The portion used is not central or significant to the entire work

Fair use is not permitted for:

- Commercial activity
- Numerous copies
- Profiting from the use
- Entertainment
- Bad-faith behavior
- Denying credit to original author.
- Unpublished work
- Highly creative work
- Work made accessible on the Web or other public forum
(Buttler, Ferullo & Hoon, 2007)

Copyright & CLU

CLU complies with all copyright regulations. All clients are also expected to abide by copyright law. To facilitate compliance, ISS has created specific policies for the campus community to follow. A general overview of academic copyright is found at the Copyright Clearance Center Web site and is entitled *The Campus Guide to Copyright Compliance*. This site explains the various sections of the Copyright Act as it applies to academic institutions: <http://www.copyright.com/Services/copyrightoncampus/> Another useful source is entitled *Questions & Answers on Copyright for the Campus Community*, which provides answers to specific copyright scenarios:

["http://www.publishers.org/main/Copyright/attachments/PC-029-08-06-CopyrightQA_v3.pdf](http://www.publishers.org/main/Copyright/attachments/PC-029-08-06-CopyrightQA_v3.pdf)

Multiple Copies for Classroom Use

A faculty member may make multiple copies (not exceeding more than one copy per student in a course) for classroom use providing the copy:

- Meets the brevity test by being less than 2500 words
 - Meets the test of spontaneity—done within a reasonable time period (The decision to use the work and the moment of its use for maximum teaching effectiveness are so close in time that it would be unreasonable to expect a timely reply to a request for permission)
 - Meets the cumulative effect test (the content is relevant to the course being taught)
 - Includes a copyright notice on each copy
- (Wright, 2007)

Library Photocopying and Printing

All books and journals are subject to copyright law. One copy of an article from a library journal is permitted for personal use. If more than one copy is required, one must seek permission from the journal publisher. The Copyright Clearance Center (CCC) provides additional guidance on this subject:

http://www.copyright.com/Services/CorporateGuide/photocopies_frameset.htm

Students are permitted to use library printers to produce one copy of a document for personal use. Printers are not to be used for making class handouts (e.g., multiple copies of PowerPoint handouts or papers). Students should be referred to the Printing Services department if they need to create class handouts.

ERes/WebCT Guidelines for Faculty

Course management software such as ERes and WebCT entail specific issues and compliance requirements. This section reviews these regulations as they pertain to the use of ERes and WebCT. For a general overview, see the CCC document entitled *Using Electronic Reserves*: <http://www.copyright.com/media/pdfs/Using-Electronic-Reserves.pdf>

ERes is an electronic reserves system that allows instructors to post documents on the Web for their students to access anytime from any Internet-connected computer. The CLU ERes homepage is: <http://eres.clunet.edu/>. WebCT (<http://WebCT.com>)

is a course management application with functionality similar to ERes.

All e-reserve pages that contain material protected by copyright law must be password protected and that password may be made available only to CLU students enrolled in that course. Access must be terminated at the end of the semester. Content must be archived at the end of the semester. Items which do not require copyright permission (i.e., not copyright protected) are:

- Exams, and homework solutions
- Lecture notes and syllabi
- U.S. Government publications
- Works in the public domain (see <http://www.unc.edu/%7Eunc/ing/public-d.htm> for a chart)

Materials that fall under "fair use" do not require copyright permission, but they do require a notice of copyright (Section 108 United States Code Title 17). These materials should also include an appropriate citation. These items are:

- A single article from a journal or periodical
- A single chapter from a book
- A short story, essay or poem from a collected work
- A short excerpt (no more than 10% of the total) of a longer work, not divided into chapters or articles
- Material where the instructor is the copyright holder

Materials that do not fall within "fair use" will require copyright permission. These items are:

- An article from a journal or periodical that is to be used for more than one semester or articles that are used for an individual course taught in multiple sections by many instructors
- More than one article from a journal or periodical issue
- A chapter of a book used for more than one semester
- Multiple chapters of a book

ERes courses not being reused after two years need to be deleted by the faculty member.

The ERes manager will contact each Faculty member before the ERes manager deletes the course page after two years. For example, Fall 2007 course pages not being reused for Fall 2008 need to be deleted, and the faculty member is responsible for saving his/her files contained on the course page. At the end of each fiscal year all ERes courses will be archived.

The library staff is available to assist faculty in determining if CLU has access to an article via one of its electronic databases, thus enabling the use of a link for an item where the aggregator has already been granted copyright permission and pays royalty fees. These links may stay on a page indefinitely.

A sample copyright notice might read: "Warning Concerning Copyright Restrictions: The copyright law of the United States (Title 17, U.S. Code) governs the making of photocopies or other reproduction of copyright materials" or "This material may be protected by copyright."

Because ERes does provide a copyright statement before a student can click through to an article, additional notice of copyright is optional.

Computer Use Policies

Computing facilities and equipment are to be used only for University-related activities such as teaching and study. Use of CLU computer equipment or facilities for commercial purposes is neither authorized nor supported. The complete policy can be found at: http://www.callutheran.edu/iss/policies/computer_use/index.php.

Software Use

The University purchases software licenses for the software that is available on CLUnet. Addition, removal, or transfer of such software without authorization is prohibited per U.S. Code, Title 17, Section 106. Clients are required to use CLU-provided software as it was intended. Ownership or possession of illegal or damaging software, whether intentional or not, constitutes violation of the Computer Use Policy. Information Systems and Services will only provide support for University-approved software.

Illegal Access and Use

The University will not tolerate attempts to illegally access unauthorized machines via the computer network, to decrypt encrypted materials, or to obtain privileges to which the user is not entitled (hacking). Such conduct is prohibited per Public Law 98-473, Chapter XXI. Manipulation of files, access to unauthorized parts of CLUnet managed computers and network infrastructure, attempts to circumvent data protection schemes and/or to discover security loopholes, or possession of such software by clients is prohibited.

Client Accounts

Clients are assigned one account for individual use. Sharing an individual computer account with other persons is prohibited. Passwords should be protected from discovery or use by others. If account holders knowingly or carelessly make their password available to others, they may still be held accountable for any actions that may arise from use of their account by another individual. Authorization for access will be canceled when either a student terminates enrollment or fails to enroll for succeeding terms, or when an employee separates from or changes job assignments outside the scope of CLU.

Client Behavior (Netiquette)

CLUnet clients using resources, including but not limited to electronic mail, bulletin boards, or discussion groups, are prohibited from sending or displaying messages or images that are libelous, patently offensive, or sexually explicit, or that intimidate, threaten, demean, or harass individuals or groups, or that would otherwise bring discredit to the University.

Printing Articles from Periodical Databases

A client may print one copy of an article for personal study or use. One copy of an article may also be uploaded to ERes or WebCT, proving that a copyright notice is posted (See ERes and WebCT section).

If a client requires additional copies to distribute to a class for example, a durable link to the article should be created, enabling clients to click on the link and access the article through a database such as ProQuest.

If a faculty member or student requires multiple copies of an article, the publisher must be contacted for permission.

The Digital Millennium Copyright Act of 1998

CLU enforces The Digital Millennium Copyright Act of 1998 www.copyright.gov/legislation/dmca.pdf. This law criminalizes the production and dissemination of technology used specifically to evade measures that prevent unlawful access to copyrighted works. The act also criminalizes attempts to elude access controls.

Downloading Electronic Files (MP3s, etc.)

University policy forbids the downloading, file sharing of unauthorized MP3s. The University is subject to legislation, and inspection of its servers and sites by such groups as the RIAA (Recording Industry Association of America). These groups are authorized to act on behalf of their member companies in matters involving the infringement of their sound recordings, including enforcing their copyrights and common law right on the Internet.

Clients found distributing or storing MP3's on university servers and shares may be subject to disciplinary action as stated in the University Computer Use Policy. The person could also face criminal charges, state or federal, due to infringing activity on state-owned servers and workstations.

Library Services

Interlibrary Loan

Interlibrary loan (ILL) occurs when a qualifying library borrows from another qualifying library on behalf of a patron. The Library provides ILL services to:

- Currently enrolled CLU Students
- CLU Full-Time / Part-Time Faculty
- CLU University Staff and Administration
- CLU Faculty Emeritus

Interlibrary Loan services do not extend to spouses or family members of eligible CLU patrons, community borrowers or alumni. Many public libraries offer these services to the community. Additional information on CLU ILL policies can be found at <http://www.callutheran.edu/iss/policies/ill/index.php>. The Copyright Clearance Center also has an excellent guide on general issues pertaining to ILL at <http://www.copyright.com/media/pdfs/ILL-Brochure.pdf>

Reserve Materials

The Pearson Library will reserve for students a single and/or multiple copies of copyrighted materials received from CLU faculty and staff on reserve in the library reserve area. The following conditions must apply:

- The faculty member who requests that items be placed on reserve follows CLU copyright policies.

- Students using reserve materials will abide by all copyright policies and use the resources for personal study and copy limited content for their personal study and use.

These guidelines are designed to provide general guidance on copyright issues pertaining to CLU. If you have specific questions, please check with your supervisor.

Distance Learning & Services to Satellite Locations

The University provides library and computer services to students and staff associated with satellite campuses located in Oxnard and Woodland Hills. Services are also provided to doctoral cohorts meeting in Los Angeles and the Ventura County Schools administration building.

The library will provide electronic copies of articles from the print journal collection to all students attending satellite campuses. The library abides by copyright law in fulfilling these requests and can provide one copy of an article for student use. An order form and description of additional services can be found at

<http://www.callutheran.edu/iss/research/satellite.php>

The TEACH Act & Distance Learning

The TEACH Act was specifically created to address copyright issues as they relate to distance education. The act revises an existing exemption in the Copyright Act that allows performance and displays of copyrighted works that would be displayed in a live classroom setting. Among the provisions of this act are: 1.) that only students officially enrolled in a course can view the work; 2.) transient copies of the work can be retained as long as reasonably necessary to complete the transmission and 3) performance of certain kinds of works should be limited to reasonable and limited portions. The Copyright Clearance Center (CCC) provides a complete explanation of the TEACH Act

<http://www.copyright.com/media/pdfs/CR-Teach-Act.pdf>

Copyright & Student Responsibility

Avoiding Plagiarism

Plagiarism is best avoided through attribution and referencing. Sources you must cite include:

- Books, journal articles, Web pages, etc.
- Oral communication and presentations such as lectures, speeches, personal interviews and performances from which you use information.

- Intellectual property created by someone else such as dramatic performances, films or songs.

Give “proper credit” by:

- Using quotation marks to indicate you are using someone else’s words and attribute the words to that individual or source.
- Paraphrasing another person’s words or put their ideas into your own words and cite the source in your paper.
- Crediting the artist or creator if you use an image or music someone else created and include it to a presentation or your own work.

Additional information is found in the library publication entitled: Understanding Plagiarism, found at:

http://public.clunet.edu/~mondsche/handouts/plagiarism_pamphlet.pdf. This pamphlet should be distributed to Freshman Seminar classes, English 111 and other first-year courses.

References

Anonymous (n.d.). Copyright.com (The Copyright Clearance Center). Retrieved July 23, 2007, from <http://www.copyright.com/cc/home.do>

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Buttler, D. K., Ferrullo, D. L., & Hoon, P. E. (2007). *Copyright and the digital library: Making new opportunities work*. [Brochure]. West Lafayette, IN: Purdue University.

Wright, V. (2007). The copyright site. Retrieved July 23, 2007, from <http://www.thecopyrightsite.org/index.html>