

TIPS TRICKS^{AND} HOW TO...

Prevent Copyright Violations

All published and unpublished work is copyrighted. As FACT duplicates material on CD-ROM, it may be at risk of violating copyright laws. In order to protect you, FACT, and the University from liability due to such violation, please read the following summary and complete the required release form.

What is a copyright?

A copyright is the legal right granted to an author or creator of a work to control the use of the created work. He/she may allow or prohibit duplication (in part or in whole), distribution, copying, derivative versions, performances, or public display of the work. The work does not need to be published in order to be considered copyrighted. Copyright protection extends to all types of authored work including, but not limited to, books, newspapers, magazines, software, sound recordings, video, photographs, and multimedia presentations. The purpose of a copyright is to ensure that an author is fairly compensated for the use and creation of his/her work.

What is “fair use”?

Notwithstanding the previous paragraph, you are allowed to use copyrighted works under certain circumstances called “Fair Use.” Unfortunately, these rules are not hard and fast so it is always better to err on the side of ALWAYS obtaining permissions for use of a copyrighted work. There are, however, some guiding principles that you can apply to your use of copyrighted material, always keeping in mind that you are not trying to get around copyright protections to cheat the copyright holder of his/her rights. There are four factors to consider when deciding whether your use of copyright material is permissible without permission:

1. **How are you using the material?** Showing a movie and charging admission is a commercial use and violates copyrights; however, showing a clip of that movie in a classroom is educational. Use of works in part or in whole in an anthology or syllabus where the syllabus is sold is commercial use, not fair use. Making many copies of a single clip for student classroom use is probably legal if they are collected again but giving them away to take home is not. You cannot copy portions of a textbook and distribute them in lieu of the student buying a copy. Each student, however, may make a copy of journal articles or certain pages of a book for their own use from a library reserved version as long as the intent is not to help students avoid buying that textbook for a course. Quoting portions of a work for scholarship, review, or parody is considered fair use, even if it is for profit. Deriving a new work from an old one is more likely to be fair use the more it differs from the original. An old tune with new lyrics might be fair use for the lyrics but not for the tune.
2. **What is the nature of the work?** Articles in a journal are expected to be copied since they are rarely purchased separately but bound in large collections. Instead, a library subscribes to the journal and researchers copy only the portions they need for their research or teaching. On the contrary, a song or a video may not be copied

because such a copy is considered a distribution as you can reasonably buy a single copy of that entire work.

3. **How much of a work is being used in relation to the whole?** A single copy of the following can be made for teachers for preparation or scholarly research: 1) A chapter from a book; 2) An article from a periodical or newspaper; 3) A short story, short essay, or short poem; and 4) A chart, diagram, drawing, or picture from a book, periodical, or newspaper. A poem is considered short if less than 2 pages or 250 words. A short story or essay can be used whole if less than 2500 words. If it is longer, limit use to 10% or 500-1000 words. Use can be cumulative: More than one poem, article, essay or story from the same author or 3 from the same anthology could constitute an infringement.
4. **What is the effect of the use on the potential market for or value of the copyrighted work?** This is the bottom line of all copyright laws. Making 25 copies of a music CD would deprive the copyright holder of the income derived from the sale of 25 original CDs and would not constitute fair use. On the other hand, libraries pay a large fee for the rights to allow copying of their journals. The working rule of thumb is "Would copying all or part of a work deprive the owner of income that they would receive if you did not copy the work?" If so, then get permission first! Remember, where copyright laws are concerned, it is better to ask permission than forgiveness.

The internet creates a special problem for copyrights. In general, consider the internet to be an open copy machine. Placing copyrighted work on a website where it can be freely downloaded is the same as making illicit copies. However, making a link to another web page does not compromise copyright laws since the control of what is downloaded belongs to the copyright holder. But copying and distributing text, images, or entire pages is a violation of law.

Summary

The purpose of copyright law is to protect the owner of original material from theft of income by those who would give away the fruits of the owner's imagination and hard work. Copyright laws are designed to allow others to use part or all of that work under certain circumstances including "fair use" and "educational use." But not all educational use is protected. Whenever possible, or if you are not sure if your use constitutes "fair use," then get the appropriate permissions.

FACT reserves the right to refuse to duplicate CDs if it believes that doing so would constitute a violation of copyright law.

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