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Can I Use That? Copyright and Licensing for Health Sciences Educators

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10-16-2015

Can I Use That?

Copyright and Licensing for Educators

HSC Education Day, 2015
Jake Nash, MSLIS



Participants will be able to:

1. describe at least two aspects of copyright
2. make a fair use determination when using protected material for educational purposes
3. understand the terms of a license and implicit reuse rights

Disclaimer

I'm not an attorney, and therefore this presentation does not constitute legal advice and is for informational purposes only.

"To promote the Progress of Science and the useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries." -Article 1, Section 8. U.S. Constitution

- Goes back to 1790
- Original Term 14 years with option for renewal of an additional 14 years
- Current Term:
 - Individuals: 70 years after creator's death
 - work for hire: 120 years after creation or 95 years after publication
- Public Domain: All works published before 1923, Government Documents, and those works that are automatically dedicated to the PD by their creators are all copyright free

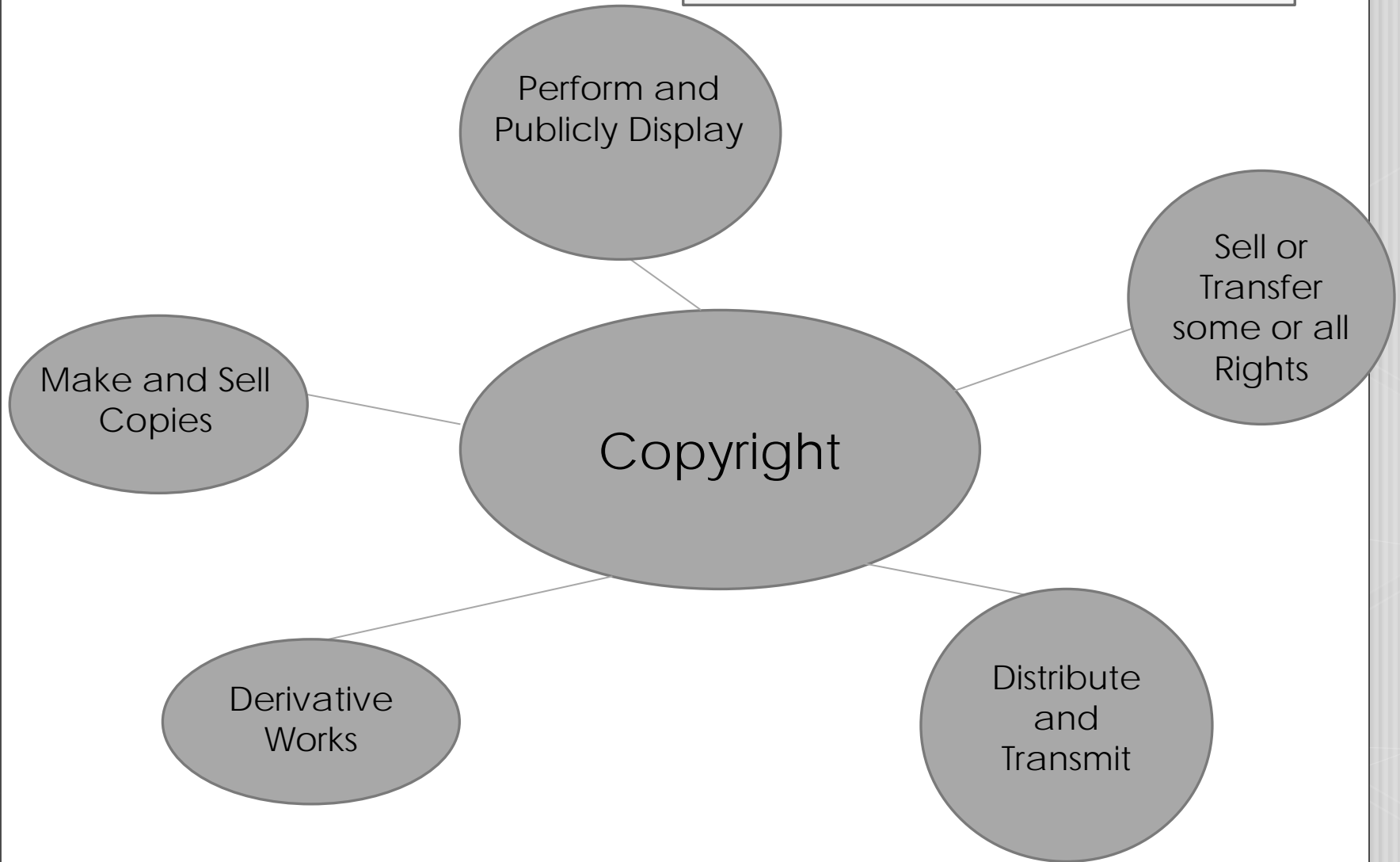
What can be copyrighted?

- Original creative works “fixed in a tangible medium”
 - If you copy my presentation, you do NOT get the copyright to that copy

What cannot be copyrighted?

- Ideas, facts, lists of ingredients/compounds (e.g. a recipe)
 - However! The organization/expression of facts and ideas, if fixed in a tangible medium, CAN be copyrighted.

Copyright



These rights are vested **AUTOMATICALLY**, no registration required

The Importance of Situational Awareness: A Qualitative Study of Family Members' and Nurses' Perspectives on Teaching During Family-Centered Rounds

Jimmy Beck, MD, MEd, Rebecca Meyer, MD, MEd, Terry Kind, MD, MPH, and Priti Bhansali, MD

Acad Med. 2015;90:1401–1407.
First published online July 21, 2015
doi: 10.1097/ACM.0000000000000810
Supplemental digital content for this article is
available at <http://links.lww.com/ACADMED/A292>.
An AM Rounds blog post on this article is available
at academicmedicineblog.org.

During FCR, the attending physician
must balance patient and family care
priorities with the educational objectives
of students, residents, and fellows. Most

and 2015 at Children's National Health
System in Washington, DC. Children's
National Health System is a tertiary care
academic hospital where FCR is the
standard model for inpatient rounds.

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1401

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RESEARCH ARTICLE

Social Grooming in Bats: Are Vampire Bats Exceptional?

Gerald Carter*, Lauren Leffer

Department of Biology, University of Maryland, College Park, Maryland, United States of America

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Carter G, Leffer L (2015) Social Grooming in Bats: Are Vampire Bats Exceptional? PLoS ONE 10(10): e0138430. doi:10.1371/journal.pone.0138430

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Vs.

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- The fundamental rule of the internet:

If you put something out there, it's out there!

- Regardless of the strictest copyright statement, someone can reuse your creations without your permission



VS



Fair Use

- Fair Use is an exception and limitation to copyright,
- Permits limited use without permission from rights holder
- Determination of whether a use is fair is based on 4 factors
 1. Purpose and Character of the use
 - Non-Profit Educational use, commercial, etc
 2. Amount of the use
 - 1 chapter of a 30 chapter book, the entire book, etc
 3. Nature of the copyrighted work
 - Factual reference, creative work (novel, play, etc)
 4. Effect on the work's market value
 - Does your use obviate the need to purchase the work?
 - Scanning a required text for students and distributing it? Probably not fair...

Fair use is the USER'S right, and is essential to the educational enterprise!

- “Face-to-face teaching” allows for the performance or display of protected material
 - Reading a poem aloud, discussing a protected image
- “Transmission to Students” allows digital copies to be put on reserve/in course management systems that are password protected
 - Assumes the digital copy already exists
 - Keep it simple and LINK to the library’s electronic version
 - Should NOT obviate the need to purchase the work
 - CAN’T scan entire print text and make it freely available, even if it’s password protected
 - CAN link to library ebook
- Fair Use
 - Consider fair use if you wish to reuse or make copies of something for inclusion in course management software (e.g. one45, learn, etc)

- A common decision algorithm:

1. Find image you like, "Perfect for my presentation!"
2. Notice Copyright symbol, "hmm...well...it's on google, right?"
3. "Ah, Screw it! Not like I'll go to jail, right?!"
4. Use it without permission in presentation.
5. Don't go to jail. "Yay!"
6. Repeat.

- The "Right Thing to Do"

- If the work you want to use is protected, first consider whether your use is fair
 - Apply the four-factored test
- If you determine your use is not fair, ask for permission
 - Some individuals may be more than happy to share
 - Companies that make money off of the work you want to use likely will charge
 - If you can't or don't want to pay, find an alternative

Scenario 1

You want your students to read a number of articles from the same issue of a journal for class. The library subscribes to this journal in electronic format, and you want to include the articles in your one45 course space. How should you proceed?

Go wild!

Link to the articles through the library catalog so you are not “making copies” and thus infringing the rights holder (the journal vendor)

Fair Use Determination

1. **Purpose:** Non-profit, educational use
2. **Amount:** Entire article – not making copies, however, because linking
3. **Nature of Work:** Non-creative/dramatic journal articles
4. **Market:** No effect on market – journals are licensed for ALL UNM users

Scenario 2

You are starting a 4-corners journal club that includes clinicians throughout all 4 states. You want to include 10 journal articles in a password-protected cloud storage space that only club members will have access to. The library subscribes to 8 of the journals, but 1 of the articles is from a personal subscription, and 1 is from Interlibrary loan.

Because of licensing restrictions, sharing UNM licensed material with “unaffiliated” folks is an infringement of copyright. Additionally, your **personal** subscription and **personal** Loan is for **personal** consumption.

Fair Use Determination:

1. Non-Profit, Educational Use – that’s good.
2. Entire articles NOT licensed for non-UNM consumption – not good.
3. Non dramatic works – good
4. Effect on the market – considerable effect

The fact that this is also directly contrary to license agreement with journal vendors negates a determination

Look for sharable articles or come to an agreement with rights holder

Scenario 3

You are reviewing colleagues' lectures from other institutions and wish to reuse parts of those lectures in your own instructional activity.

1. Check the License – is it free to reuse without permission?
2. If it's not able to be reused, will your use be considered fair use?
3. If your use is not considered fair use, contact rights holder and ask permission
4. If you do not have permission, find another resource

Scenario 4

You create educational material and want to share it on the web for others to use but you want to be sure that you are credited as the creator. What should you do?

If reuse is the main goal, select from any of the creative commons licenses to put on your material and put your material in a prominent place on the internet, e.g. MedEd Portal or UNM's Institutional Repository.

If you just want people to see the good work you've done and don't want to allow reuse, consider a traditional copyright license.

Scenario 5

You are presenting at a national conference and want to use an image you found on Google Images. There is no rights information that you can see.

1. Assume the image is copyrighted
2. Assess whether your use will be fair use.
3. If not fair use, contact the rights holder and ask permission.
4. If the rights holders won't allow reuse, find another image.

Scenario 6

You want to screen a documentary for rural practitioners in Domenici auditorium for CME credit. There is a course fee of \$15 per participant.

Got a license for that?

“Federal law provides severe civil and criminal penalties for the **unauthorized reproduction, distribution, or exhibition** of copyrighted motion pictures, video tapes, video discs...”

Fair Use determination:

1. Your use, while educational, is also commercial (direct payment)
2. Your use cuts into potential market value
 1. all participants could have bought their OWN copy from the rights holder
 2. there is a 'performance license' available for purchase(hint: it's expensive!)
3. You are using the ENTIRE video
4. While a documentary, the video can be considered a creative work.

Parting Tips

- Unless otherwise noted, always assume an item is protected by copyright
- Keep it simple and link when possible
- Looking for reusable images? wikimedia commons, filter by reuse licenses on google images and flickr
- Be a copyright Advocate!
 - If retaining some or all of your own copyright is important to you, do it!
 - When publishing, seek to retain rights before signing them away
 - Advocating for copyright awareness does NOT mean being the copyright police
 - That's what the FBI is for...
- Remember the fundamental rule of the internet: if you don't want it out there, don't put it out there!
 - E.g. Personal memoirs, 'embarrassing' selfies, etc



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HEALTH SCIENCES LIBRARY
and INFORMATICS CENTER

Questions?

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